

Chapter 300

ZONING

[HISTORY: Adopted by the Township Board of the Charter Township of Midland 3-14-2007. Amendments noted where applicable.]

ARTICLE I
Title and Purpose

§ 300-1. Short title.

This chapter shall be known as the "Charter Township of Midland Zoning Ordinance."

§ 300-2. Purpose.

It is the general purpose of this chapter to promote the public safety, health, morals, convenience and general welfare of the Township. To accomplish this purpose, this chapter will address the following objectives:

- A. Guide the use and development of land, buildings and natural resources according to their suitability for particular activities.
- B. Protect the community's rural quality of life and enhance the social and economic stability of the Township.
- C. Facilitate safe and convenient access to buildings and land use.
- D. Guide efforts to provide public services, such as water supply, sewers, storm drainage, waste disposal, transportation, education, recreation and public safety.
- E. Establish standards to guide physical development of each zoning district and of the Township as a whole, and provide for enforcement of these standards.
- F. Educate citizens and public officials about their shared responsibilities for wise use of community resources.
- G. Strive to balance one property owner's right to the peaceful use and enjoyment of his or her parcel with the neighboring property owner's rights to the peaceful use and enjoyment of his or hers.
- H. Manage the expenditure of funds for public improvements and services to conform to the most advantageous uses of land, resources and properties.

§ 300-3. Severability.

It is the legislative intent that this chapter be liberally construed, and should any provision or section of this chapter be held unconstitutional or invalid, such ruling shall not affect the validity of the remaining portions of this chapter. It is intended that this chapter shall stay, notwithstanding the invalidity of any part thereof.

§ 300-4. Repealer.

The existing zoning regulations of Midland Charter Township, as amended, are hereby repealed. However, said repeal shall not abate any action now pending by virtue of ordinance herein repealed, nor shall said repeal discontinue, abate, modify, or alter any penalty accrued or to occur, nor shall it affect the rights of any person, firm, or corporation, nor shall said repeal waive any right of the Township under any section or provision of this chapter hereunder repealed that was existing at the time of the passage and effective date of this chapter.

ARTICLE II Terminology

§ 300-5. Word use.

For the purpose of this chapter, certain rules of construction apply to the text, as follows:

- A. Words used in the present tense include the future tense, and the singular includes the plural, unless the context indicates the contrary.
- B. The word "person" includes a corporation or firm as well as an individual.
- C. The word "lot" includes the word "plot," "tract," or "parcel."
- D. The term "shall" is always mandatory and not discretionary; the word "may" is permissive.
- E. The term "used" or "occupied" as applied to any land or structure shall be constructed to include the words "intended, arranged or designed to be used or occupied."
- F. Any word or term not herein defined shall be used with a meaning of common, standard use.

§ 300-6. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ACCESSORY USE, CUSTOMARY — Any accessory use includes a building or structure and is a use clearly incidental to, customarily found in connection with, and located on the same lot as the principal use to which it is related.

ADULT FOSTER-CARE FACILITY — A governmental or nongovernmental establishment having as its principal function the receiving of adults for foster care. It includes facilities and foster-care family homes for adults who are aged, emotionally disturbed, mentally ill, developmentally disabled, or physically handicapped who require supervision on an ongoing basis but do not require continuous nursing care. "Adult foster-care facility" does not include the following: a nursing home or hospital as defined by Act 368 of 1978;¹ a hospital for the mentally ill as defined by Act 258 of 1974;² a county infirmary as defined by Act 280 of 1939;³ a child caring institution, children's camp, foster family home, or foster family group home for children as defined by Act 116 of 1973, as amended, being MCLA §§ 722.111 to 722.128; an establishment commonly described as an "alcohol or a substance abuse rehabilitation center"; a veterans' facility as defined by Act 152 of 1885;⁴ a residential facility for persons released from or assigned to adult correctional institutions; a maternity home; a hotel or rooming house; or a residential facility licensed by the state to care for four or fewer minors.

1. Editor's Note: See MCLA § 333.1101 et seq.

2. Editor's Note: See MCLA § 330.1001 et seq.

3. Editor's Note: See MCLA § 400.1 et seq.

4. Editor's Note: See MCLA § 36.11 et seq.

ADULT FOSTER-CARE FAMILY HOME — A private resident with approved capacity to receive not more than six adults, who shall be provided foster care for five or more days a week and for two or more consecutive weeks. The adult foster-care family home licensee shall be a member of the household and an occupant of the residence.

ADULT FOSTER-CARE LARGE GROUP HOME — An adult foster-care facility with the approved capacity to receive at least 13 but not more than 20 adults, who shall be provided foster care.

ADULT FOSTER-CARE SMALL GROUP HOME — An adult foster-care facility with the approved capacity to receive at least seven but not more than 12 adults, who shall be provided foster care. An adult foster-care small group home licensed to receive more than six adults and large group home as a special use in Zones R-1, R-2 and B-1. An adult foster-care family home and adult foster-care small group home licensed to six or less adults as a use by right in any residential zoning district. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

ADULT-RELATED BUSINESSES — For the purpose of this chapter, the following definitions shall apply:

- A. **ADULT BOOKSTORE** — An establishment permitting physical access by customers to floor area or shelf space which is devoted to the display of books, magazines or other periodicals, video tapes, photographs, or motion picture films which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas as defined by this chapter. This definition also includes any establishment which indicates the availability of such material by any sign, advertisement, or other device audible or visible from anywhere outside the principal building, regardless of the amount of area devoted to said materials. See § 300-74C(10).
- B. **ADULTS-ONLY BUSINESS** — Any business, club, or other organization wherein one or more persons display specified anatomical areas or engage in specified sexual activities as defined by this chapter, either in person or by photograph, internet, digital transmission, motion picture, television, or other type of image. Further, this definition includes the following terms as defined by this chapter: "adult bookstore," "adult theater," "massage parlor," and "public bath." See § 300-74C(10).
- C. **ADULT-RELATED BUSINESS** — Any activity described in any of the subsections of this definition and any other business having an employee or entertainer, in person or by motion picture, television, videotape, hologram, magazine or other type of image, including the internet or other web-based technology, displaying any specified anatomical area or engaging in any specified sexual activity.
- D. **ADULT THEATER** — Any establishment presenting material or activity distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas as defined by this chapter for observation by patrons or customers. See § 300-74C(10).

ALLEY — Any dedicated public way other than a street which provides only a secondary means of access to abutting property and is not intended for general traffic circulation.

APPROVED ROAD — A road so constructed as to meet the Midland County Road Commission specifications and receive certification of approval by the Midland County Road Commission.

ASSISTED LIVING FACILITY —

- A. A residential facility, licensed by the State of Michigan, with a homelike setting that provides an array of coordinated, supportive personal and health care services, available 24 hours per day, to residents who have been assessed under Michigan Department of Health and Human Services rules to need any of these services. Each resident shall have a service plan based on the assessment, which may include: **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
- (1) Specified services of intermittent nursing care;
 - (2) Administration of medication; or
 - (3) Support services promoting residents' independence and self-sufficiency.
- B. An "assisted living facility" does not include:
- (1) A residential facility for persons with a disability; or
 - (2) Adult day care provided in conjunction with a residential facility for elderly persons or a residential facility for persons with a disability.

AUTOMOBILE REPAIR SHOP — An establishment being housed in a building or portion thereof, together with the necessary equipment used for the general repair of automobiles, engine rebuilding, rebuilding or reconditioning of motor vehicles, collision service and painting or undercoating of automobiles.

AUTOMOBILE SERVICE STATION — An establishment being housed in a building or portion thereof, together with the necessary equipment used for the direct retail sale of gasoline or any other engine fuel, kerosene, or motor oil and lubricants or grease, and including the sale of minor accessories and the servicing of and minor repair of automobiles. For the purposes of this chapter, an "automobile service station" may include uses accessory to the station itself, including a market or convenience store, food service, and other such similar uses.

BASEMENT — A story of a building having part but not more than 1/2 of its height above finished grade. A basement shall be counted as a story for the purpose of height measurement if the vertical distance between the ceiling and the average level of the adjoining ground is more than five feet or if used for business or dwelling purposes.

BERM — A man-made, formed, earthen mound of definite height and width used for obscuring purposes. In a residential district, a berm shall be no greater than six feet in height and side slopes shall be no steeper than four feet horizontal and one foot vertical.

BLOCK — The property abutting one side of a street and lying between the two nearest intersecting or intercepting streets, or between the nearest intersecting or intercepting street and physical barrier such as a railroad right-of-way, park, river channel or unsubdivided acreage.

BUILDING —

- A. A structure erected on site, a mobile home or mobile structure, a premanufactured

or precut structure, above or below ground, designed primarily for the shelter, support or enclosure of persons, animals or property of any kind.

- B. Any structure having a roof supported by columns or by walls and intended for the shelter, housing, or enclosure of persons, animals, or property. This shall include tents and trailer coaches.

BUILDING LINES — A line defining the minimum front, side or rear yard requirements outside of which no building or structure may be located.

BUILDING, FRONT LINE OF — The line that coincides with the face of the building nearest the front line of the lot. This face includes sun parlors and enclosed porches but does not include steps. Said line shall be parallel to the front lot line and measured as a straight line between the intersecting points with the side yard.

BUILDING, HEIGHT OF — The vertical distance measured from the mean elevation of the finished grade line of the ground about the front of the building to the highest point of the roof for flat roofs; to the deckline of mansard roofs; and to the mean height level between eaves and ridge for gable, hip and gambrel roofs.

BUILDING, PRINCIPAL — A building in which is conducted the main or principal use of the lot on which it is located.

CLINIC — An establishment where human patients who are not lodged overnight are admitted for examination and treatment by a group of physicians, dentists or similar professionals.

CLUBS — An organization catering exclusively to members and their guests, or premises and buildings for recreational, artistic, political, or social purposes, which are not conducted primarily for gain and which do not provide merchandise, vending, or commercial activities, except as required incidentally for the membership and purpose of such club.

COMMERCIAL VEHICLE — Any self-propelled or towed motor vehicle used on a highway in interstate commerce to transport passengers or property when the vehicle:

- A. Has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, of 4,536 kg (10,001 pounds) or more, whichever is greater; or
- B. Is designed or used to transport more than eight passengers (including the driver) for compensation; or
- C. Is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or
- D. Is used in transporting material found by the Secretary of Transportation to be hazardous under 49 U.S.C. § 5103 and transported in a quantity requiring placarding under regulations prescribed by the Secretary under 49 CFR, Subtitle B, Chapter I, Subchapter C.

CONTRACTOR ESTABLISHMENT — Any establishment from which services are provided for building construction, building repair or building equipment installation or repair, such as, but not limited to flooring, heating and plumbing.

CONVALESCENT OR NURSING HOME — A building wherein infirm or

incapacitated persons are furnished shelter, care, food, lodging and needed attention for a compensation as regulated by state ordinance.

COURTS — Open, unoccupied spaces other than yards on the same lot with a building.

- A. COURT, INNER — An open, unoccupied space not extending to the street or front or rear yard.
- B. COURT, OUTER — An open, unoccupied space opening upon a street, alley, yard or setback.

COVERAGE, LOT — The percentage of the plat or lot covered by the building area.

CUL DE SAC — A street with only one outlet, having sufficient space at the closed end to provide a vehicular turning area.

DISTRICT — Any area within the community having common status with those identified in this chapter.

DRIVE-IN — A business establishment so developed that its retail or service character is dependent on providing a driveway approach or parking space for motor vehicles so as to serve patrons while in their motor vehicles, or within a building on the same premises and devoted to the same purpose as the drive-in services.

DRIVE-THROUGH — A business establishment so developed that its retail or service character is dependent on providing pickup, drive-up window, delivery to vehicle or other similar services while receiving or delivering goods or services.

DWELLING, MULTIPLE-FAMILY — A multiple-family dwelling is a residential building designed for or occupied by three or more families with the number of families in residence not exceeding the number of dwelling units provided.

DWELLING, SINGLE-FAMILY — A building or portion thereof, designed for occupancy by one family for residential purposes and having interior cooking facilities.⁵

DWELLING, TWO-FAMILY — A two-family dwelling is a detached residential building containing two dwelling units, designed for occupancy by not more than two families. These may also be known as "duplexes."

EDUCATIONAL AND SOCIAL INSTITUTIONS — Public and private elementary and secondary schools and institutions, provided that none are operated for profit. Auditoriums and other places of assembly and centers for social activities, including charitable and philanthropic activities other than activities conducted as a gainful business or of a commercial nature.

FAMILY or DOMESTIC UNIT —

- A. An individual or group of two or more persons related by blood, marriage, or adoption, together with foster children and servants of the principal occupants, with not more than one additional unrelated person, who are domiciled together as a single, domestic, housekeeping unit in a dwelling unit or;
- B. A collective number of individuals domiciled together in one dwelling unit whose

5. Editor's Note: The definition of "dwelling, temporary," added by Ord. No. 97, which immediately followed this definition, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I). See the definition of "temporary dwelling" in this section.

relationship is of a continuing, nontransient, domestic character and who are cooking and living as a single, nonprofit, housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, coterie, organization, or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature or for an anticipated limited duration of a school term or other similar determinable period.

FARM — A tract of land which is directly devoted to agricultural purposes, including establishments operated as greenhouses, nurseries, orchards, chicken hatcheries or apiaries; but establishments keeping or operating fur-bearing animals, riding or boarding stables, kennels, quarries or gravel or sand pits shall not be considered farms hereunder unless combined with a bona fide farm operation on the same contiguous tract of land of not less than 20 acres.

FENCE, DECORATIVE — A decorative fence is intended to enclose a parcel or portion of a parcel in a decorative manner and is not necessarily intended to preclude or inhibit entry or vision into the property. Examples of decorative fences include split rail, wrought iron and similar fences that are visually transparent and/or readily breached. The Building Inspector and/or Zoning Administrator may determine that a fence is decorative and is thereby exempt from restrictions under the provisions of § 300-8C.

FENCE, FUNCTIONAL — A functional fence is intended to enclose a parcel or portion of a parcel to prevent or make difficult entry by animals, persons or vehicles. Such a fence may also be visual screen. Chain link, masonry, stockade and similar types of fences are examples of functional fences.

FREESTANDING SOLID-FUEL-BURNING FURNACES — A device or structure or equipment that is designed, intended, or used to provide heat and/or heated fluids; operates by the burning of wood, corn, pellets or other solid fuel; and is located exterior from the principal structure or any accessory structure.

HOME OCCUPATION — Any business carried on by one or more members of family residing on the premises, provided it:

- A. Be operated within the principal dwelling;
- B. Not more than one employee not living in the dwelling;
- C. Not involve alteration or construction not customarily found in a dwelling;
- D. Not use any mechanical equipment except that which is used normally for domestic or household purposes;
- E. Not use more than 25% of the total actual floor area of the dwelling.
- F. Not generate traffic in such a manner that is considerably more than the trips generated from a typical residential dwelling.
- G. Must be registered with the Township Clerk.

HOSPITAL — An institution for the diagnosis, treatment or care of aged, sick or injured people. The term "hospital" shall include "sanitarium," "rest home," "nursing home" and "convalescent home."

HOUSEHOLD PETS — Animals ordinarily permitted in Michigan residences and

kept for the company or pleasure of Michigan residents, such as domesticated dogs, domesticated cats, and domesticated birds. Household pets also include tropical fish, amphibians, reptiles, or invertebrates of a number that do not constitute a health hazard or nuisance, and can be safely and humanely kept in aquariums, cages, or enclosures, the cumulative size of which shall not exceed 50 cubic feet per household. Household pets shall not exceed six dogs or cats or combination thereof over the age of four months, nor more than six birds. Furthermore, household pets shall not include exotic, pygmy, or dwarf variations of animals defined as either wild animals or livestock, including but not limited to miniature horses, pygmy goats, and Vietnamese potbellied pigs.

HOUSE TRAVEL TRAILER — A vehicular portable structure designed as a temporary dwelling for travel, recreational and vacation uses.

INSTITUTIONS FOR HUMAN CARE — Hospitals, sanitariums, nursing or convalescent homes, homes for the aged and philanthropic and charitable institutions, but excluding institutions for drug and alcohol rehabilitation.

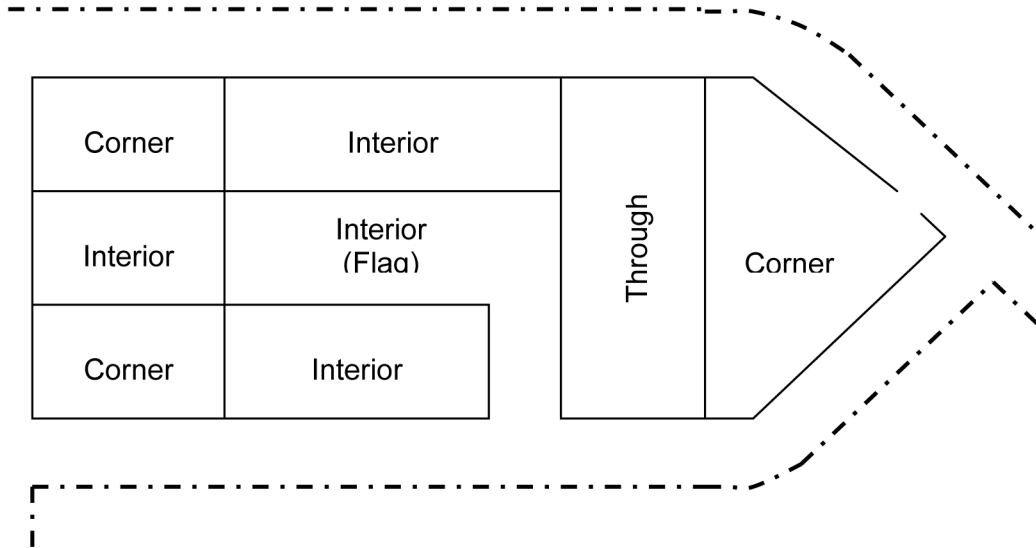
JUNKYARD — A place where junk, waste, used or secondhand materials are bought and sold, exchanged, stored, baled, packed, disassembled or handled, including, but not limited to, scrap iron and other metals, paper, rags, rubber tires and bottles. A junkyard includes automobile wrecking yards; and two or more inoperative, unlicensed vehicles shall be constructed to be a junkyard. Refer to Chapter 164, Junkyards, of the Code of the Charter Township of Midland.

LIVESTOCK — Any normally domesticated animal that is ordinarily kept on a farm, such as cattle, swine, sheep, goats, mules, burros, horses, geese, ducks, turkeys, llamas, etc.

LOADING BERTH/SPACE — An off-street space at least 10 feet wide, 25 feet long and 15 feet high; either within a building or outside on the same lot, provided, maintained and available for the loading or unloading of goods or merchandise and having direct and unobstructed access to a street or alley.

LOT — A parcel of land subject to the provision of this chapter and upon which a main building and accessory buildings may be constructed.

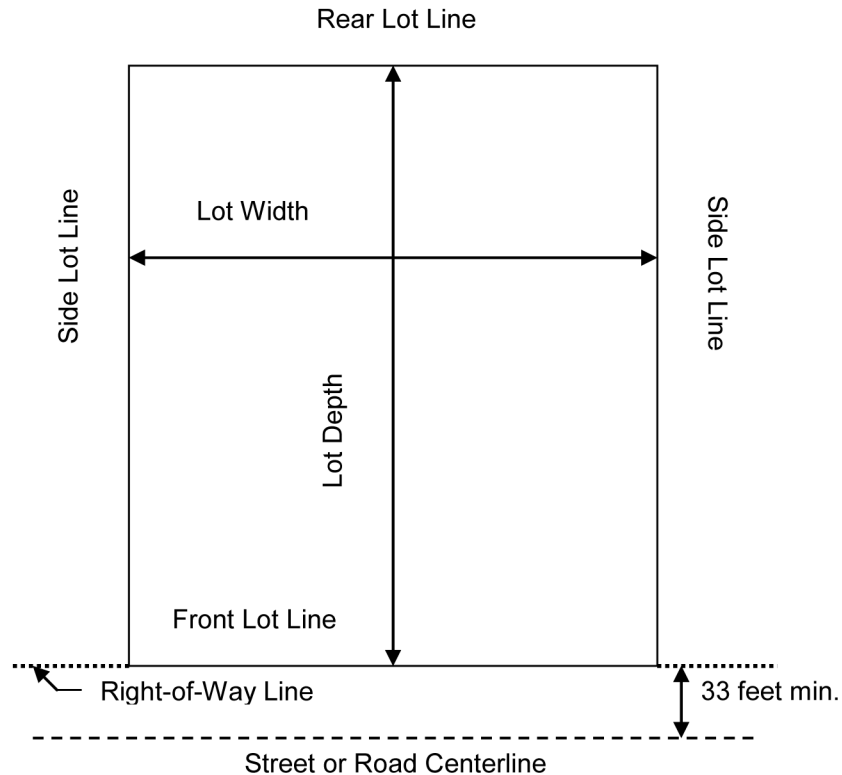
- A. **CORNER LOT** — A lot which has to least two contiguous sides abutting upon a street for their full length, and provided the two sides intersect at an angle of not more than 135°.
- B. **FLAG LOT** — A lot with a developable area connected to a street or road by a narrow strip of land that includes a driveway. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
- C. **INTERIOR LOT** — A lot other than a corner lot.
- D. **THROUGH LOT** — An interior lot having frontage on two streets which do not intersect at a point contiguous to such lot.



LOT AREA — The total horizontal area within the lot lines of the lot.

LOT LINES — The lines abutting a lot as defined herein and understood to be on an approved road.

- A. LOT LINE, FRONT — That line separating the lot from the street. In the case of a corner lot or through lot, the lines separating the lot from each street.
- B. LOT LINE, REAR — Lot line which is opposite the front lot line. In the case of a corner lot, the rear lot line may be opposite either front lot line, but there shall only be one rear lot line. In the case of a lot with side lot lines converging at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than 20 feet long, lying farthest from the front lot line and wholly within the lot.
- C. LOT LINE, SIDE — Any lot line not a front line or not a rear lot line.



LOT OF RECORD — A parcel of land, the dimensions of which are shown on a document or map on file with the Midland County Register of Deeds or in common use by county and community officials and which actually exists as shown, or, any part of such parcel held in a record of ownership separate from that of the remainder thereof.

LOT, WIDTH OF — The width measured along the front line or street line on an approved road.

MANUFACTURED HOME — A "mobile home" is a structure, transportable in one or more sections, which is built on a chassis and designed to be used as a residential dwelling with permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure, the construction of which shall comply with the United States Department of Housing and Urban Development (HUD) Mobile Home Construction and Safety Standards, CFR 24, Part 3280, which have been designed for and are intended to be employed as dwellings for residential occupancy on an extended, rather than transient, basis. Manufactured homes are not considered recreational vehicles or mobile travel trailers.

MANUFACTURED HOME PARK — A parcel or tract of land under the control of a person upon which three or more mobile homes are located on a continual, non-recreational basis and which is offered to the public for the purpose, regardless of whether a charge is made therefor, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a mobile home and which is not intended for use as a temporary trailer park.

MEDICAL MARIJUANA — The use of cannabis and its constituent cannabinoids,

such as tetrahydrocannabinol (THC) and cannabidiol (CBC), as medical therapy to treat disease or alleviate symptoms.

MOTEL — A building or group of buildings, whether detached or in connecting units, used as individual sleeping or dwelling units designed primarily to accommodate transients and their automobiles. The term "motel" shall include buildings designed as "auto courts," "tourist courts," "motor courts," "motor hotels" and similar appellations which are designed as integrated units of individual rooms under common ownership.

NONCONFORMING USE — A building, structure or use of land existing at the effective date of this chapter, or amendments thereto, and which does not conform to the regulations of the district or zone in which it is situated.

OBSCURING SCREEN — A visual barrier between adjacent areas or uses. The screen may consist of opaque structures, such as a wall or fence, or living plant material.

OPEN AIR BUSINESS — A commercial use, typically seasonal or short-term in nature, with no fixed, permanent structure, including farmers' markets, flea markets, and similar uses.

OPEN SPACE — An open area which is designed and intended to provide light and air and is designed for providing separation of uses, or for environmental, scenic or recreational purposes. An area of usable open space shall have a slope not exceeding 10%, shall have no dimension of less than 10 feet, and may include, but is not limited to, landscaping, walks, active and passive recreation areas, playground, wooded areas, water features and decorative objects such as art work or fountains. Open space shall not be deemed to include driveways, parking lots, or other surfaces designed or intended for vehicular travel.

OUTDOOR STORAGE — Any articles not concealed from public view in an enclosed structure, including accessory buildings. Placement of an article under a carport or porch, where it is visible from the street or public right-of-way, shall be considered outdoor storage.

PARKING SPACE — An off-street space of at least 180 square feet exclusive of necessary driveways, aisles or maneuvering areas suitable to accommodate one motor vehicle and having direct unobstructed access to a street or alley.

PLANNED UNIT DEVELOPMENT — An area of minimum size, as specified by ordinance, to be planned and developed as a single entity containing one or more residential clusters or planned unit residential developments and one or more public, quasi-public, commercial or industrial areas in such ranges of ratios of nonresidential uses to residential uses as shall be specified.

PRINCIPAL USE — The main use to which the premises are devoted and the principal purpose for which the premises exists.

PUBLIC BUILDINGS AND PUBLIC SERVICE INSTALLATIONS — Publicly owned and operated buildings, public utility buildings and structures, transformer stations and substations and gas regulator stations.

PUBLIC UTILITY — Any person, firm, corporation, municipal department or board, fully authorized to furnish to the public electricity, gas, steam, telephone, telegraph, cable television, transportation, water or sewerage services.

RECREATIONAL EQUIPMENT — Includes but is not limited to boats, golf carts, all-

terrain vehicles, snowmobiles, horse trailers, jet skis, campers and motor homes, utility trailers and all similar trailers and other such equipment used for the purposes of hauling equipment, materials and other such items.

RIGHT-OF-WAY — A street, alley or other thoroughfare or easement permanently established for passage of persons or vehicles.

ROAD RIGHT-OF-WAY — The line which forms the outer limits of a road right-of-way or easement, and which forms the line from which all setbacks and front yards are measured, unless otherwise specified in this chapter.

ROADSIDE STAND — A temporary structure erected on property adjacent to a public road for the sale of products chiefly produced on the property, provided such use shall not constitute a commercial district and not be deemed a "commercial activity."

SANITARY LANDFILL — A tract of land developed, designed, and operated to accommodate general types of solid waste, including but not limited to garbage, rubbish, soils, and concrete, but excluding hazardous waste.

SERVICE, ESSENTIAL — The construction, alteration or maintenance by private companies or public departments or agencies of the various transmissions, distribution or disposal systems that are essential for the preservation of the public health, safety or general welfare, such as gas, electricity, telephone, water and sewer. Also, this term includes all poles, wires, mains, drains, sewers, pipes, cables, traffic signals, hydrants and other similar equipment or accessories reasonably necessary to provide adequate services of said companies or agencies; but the term shall not include buildings or utility substations. This definition shall not include sanitary landfills, recycling centers, or nonpublic utility transfer stations, or buildings not reasonably necessary to house the foregoing.

SIGN — A name identification, description, display or illustration which is affixed to or represented directly or indirectly upon a building, structure or piece of land which is intended to direct attention to an object, product, place, activity, person, institution, organization or business. However, a sign shall not include any display of official court or public office notices, nor shall it include the flag, political unit or school. A sign shall not include a sign located completely within an enclosed building. (See Article V.)

A. **ABANDONED** — A sign shall be deemed "abandoned" if:

- (1) It does not display a well-maintained structure or sign face for a consecutive 120-day period;
- (2) The owner of the sign cannot be located at the owner's last known address, as reflected on the records of the department;
- (3) A structure designed to support a sign no longer supports the sign for a period of 120 consecutive days; or
- (4) Any sign not repaired or maintained properly, after notice, pursuant to the terms of this section.

B. **AREA OF SIGN** — The entire area within a circle, triangle, parallelogram, or other geometric configuration enclosing the extreme limits of writing, representation, emblem or any figure or similar character, together with any frame or other material

or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed; excluding the necessary supports or uprights on which such sign is placed and any numbers displaying the address of the use.

- C. **AWNING (CANOPY) SIGN** — Any sign attached to or constructed on an Awning or canopy. An "awning" or "canopy" is a permanent, rooflike shelter extending from part of or all of a building face.
- D. **CONSTRUCTION SIGN** — A sign containing identifying information concerning construction activity in progress on the premises on which the sign is located, such as the name of the future occupant or business, development name, type of development, name of the developer, and names of architects, engineers, contractors and lenders involved in the construction activity.
- E. **ELECTRONIC MESSAGE BOARD** — Video terminal or electronic changeable copy sign in which the copy or animation consists of an array of lights activated and deactivated simultaneously.
- F. **FREESTANDING SIGN** — A sign supported by one or more uprights, braces, pylons, or foundation elements located in or upon the ground and not attached to a building.
- G. **MARQUEE** — Any hood, canopy, awning, or permanent construction that projects from a wall of a building.
- H. **MONUMENT SIGN** — A freestanding sign, where the base of the sign structure is permanently in the ground or integrated into landscaping or other solid structural features.
- I. **WALL SIGN** — A sign attached to, painted upon, placed against, or supported by the exterior surface of any building. Wall signs also include marquees and canopy signs.
- J. **PROJECTION** — The distance by which a sign extends over public property or beyond the building line.
- K. **ROOFLINE** — Either the high point of the roof or the top of the parapet, whichever forms the top line of the building silhouette, and where a building has several roof levels, this roof or parapet shall be the one belonging to that portion of the building on whose wall the sign is located.
- L. **SIGN, ELECTRIC** — Any sign containing electric wiring. This does not include signs illuminated by an exterior floodlight source.
- M. **SIGN, PROJECTING** — A sign, other than a wall sign, which projects from and is supported by a wall of a building or structure.
- N. **SIGN, ROOF** — A sign located on or above the roof of any building.
- O. **SIGN, TEMPORARY** — A banner, pennant, poster or advertising display constructed of cloth, canvas, plastic sheet, cardboard, wallboard or other like materials and intended to be displayed for a limited period of time.

P. SIGN, WALL-FLAT — One affixed directly to or painted on or otherwise inscribed on an exterior wall and confined within the limits thereof of any building and which projects from that surface less than 12 inches at all points.

SITE, AREA — The total area within the property lines, excluding street rights-of-way.

SPECIAL USE — The term applied to a use which may be permitted by the application for an issuance of a special use permit by the Planning Commission. Specified procedures and requirements, as outlined in cited sections, must be complied with prior to issuance of said permit.

SPECIFIED ANATOMICAL AREAS —

- A. Less than completely and opaquely covered human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola.
- B. Human genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES —

- A. Human genitals in a state of stimulation or arousal.
- B. Acts of human or animal masturbation, sexual intercourse (homosexual or heterosexual), or sodomy.
- C. Fondling of or erotic touching of human genitals, pubic region, buttock or female breast.
- D. Bestiality.
- E. Fellatio and cunnilingus.
- F. Human excretory function.

STABLE, PRIVATE — An accessory building in which horses are kept for private use and not for hire.

STORY, HALF — A partial story under a gable, hip or gambrel roof, the wall plate of which on at least two opposite walls are not more than four feet above the floor of such story. A half story containing independent apartments of living quarters shall be counted as a full story.

STORY, HEIGHT OF — The vertical distance from the top surface of one floor to the top surface of the next above. The height of the topmost story is the distance from the top surface of the floor to the top surface of the ceiling joists.

STREET — A public thoroughfare which affords the principal means of access to abutting property.

STREET LINE — The right-of-way line.

STRUCTURE — An edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together.

TEMPORARY DWELLING — Any trailer or motor home used for human shelter and designed to be transportable and not attached to the ground, to another structure or to any utilities system on the same premises.

TOWERS, MASTS, ANTENNAS, SATELLITE RECEIVING DEVICES —

- A. Residential towers, masts, antennas and satellite receiving devices or television towers, radio antennas which are for the personal use of and which are part of the personal family living unit and which do not grossly exceed the rooflines of one-family dwellings.
- B. Commercial towers, masts, antennas and satellite receiving devices shall include those structures which are normally thought of as of a commercial nature and having heights which exceed the roofline of one-family dwellings.
- C. Radio and television stations, towers, masts, satellite receiving devices and aerials, as defined in this chapter, shall be a distance not less than the height of such structures from all property lines.

UNLICENSED VEHICLE — A vehicle which cannot be driven upon the public streets for reasons, including but not limited to being unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

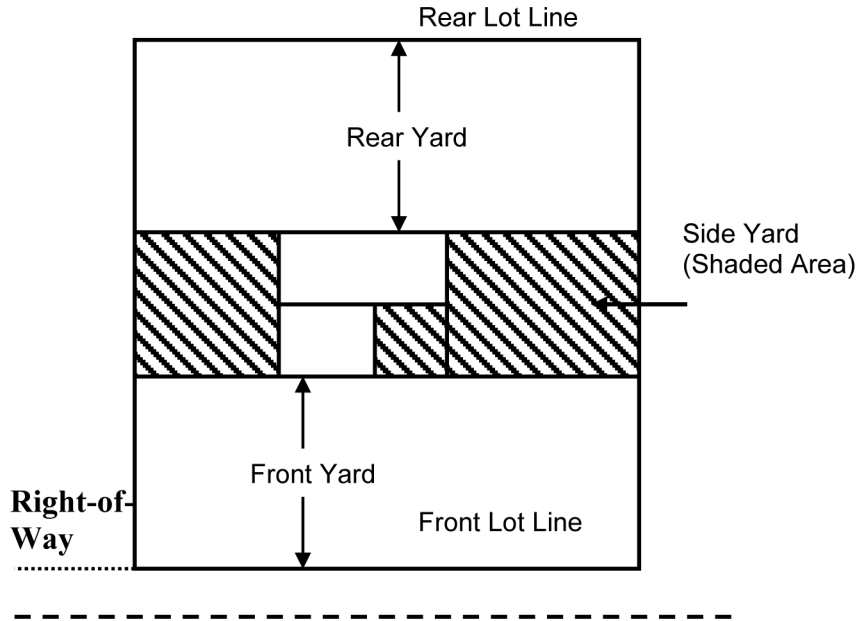
USE — The employment or occupation of a building, structure or land for service, benefit or enjoyment.

VARIANCE — A modification of the literal provisions of this chapter granted by the Zoning Board of Appeals when strict enforcement thereof would cause undue hardship, owing to circumstances unique to the specific property on which the modification is granted.

WILD ANIMAL — Any animal, which is wild by nature and not customarily domesticated in the State of Michigan.

YARD — An open space on the same lot with a building, unobstructed from the ground upward, except as otherwise provided herein. The measurement of a yard shall be constructed as the minimum horizontal distance between the lot line and the building line.

- A. YARD, FRONT — A yard extending across the front of a line between the side lot lines and measured between the front line of the lot and the nearest point of the main building or land use.
- B. YARD, REAR — An open space on the same lot with a main building, unoccupied except as herein permitted, extending the full width of the lot and situated between the rear line of the lot and the rear line of the building projected to the sidelines of the lot. The depth of the rear yard shall be measured between the rear line of the lot, and the rear line of the building.
- C. YARD, SIDE — An open, unoccupied space on the same lot with the building, situated between the building and the sideline of the lot and extending from the front yard to the rear yard. Any lot line not a front line or a rear line shall be deemed a "sideline."



YARD REQUIRED, HOW MEASURED — Required yard depth or width shall be measured in a horizontal plane and at right angles from the lot line in question or an extension thereof.

YARD, RUMMAGE, GARAGE AND SIMILAR SALES — The sale of merchandise, household goods, domestic items or other articles, whether in new or used condition, in a residentially zoned area, whether for profit, barter or community service in an open yard, garage, basement or elsewhere on the property.

ZONING PERMIT — A permit granted pursuant to this chapter to allow development or use of a specific project on a specific site under the terms of the permit. Required prior to obtaining a building permit.

ARTICLE III
General Requirements

§ 300-7. Nonconforming uses.

It is the intent of this section to permit the continuation of any lawful use of a building or land existing as of the effective date of this chapter. However, it is hereby declared that nonconformance with the provisions of this chapter is contrary to the best interests of the citizens of the Township and ought to be discontinued as circumstances permit.

- A. Authority to continue. Except as otherwise provided in this article, any nonconforming lot, use, sign or structure lawfully existing on the effective date of this chapter or subsequent amendment thereto may be continued so long as it remains otherwise lawful. All nonconformities shall be encouraged to convert to conformity wherever possible and shall be required to convert to conforming status as required by this chapter. The burden of establishing that any nonconformity is a legal nonconformity as defined by this article shall in all cases be upon the owner of such nonconformity and not upon the Charter Township of Midland.
- B. Legal nonconformities. Legal nonconformities are presumed to have existed before the adoption of zoning regulations in Midland Charter Township unless the nonconformity was illegal prior to the adoption of the zoning regulation. Illegal nonconformities have been developed in conflict with zoning regulations through oversight or error. Illegal nonconformities are required to cease immediately. Legal nonconformities are defined and/or characterized by at least one of the following:
- (1) It complied with the district regulations of the previous zoning ordinance at any point in time.
 - (2) It had been recognized as a legal nonconforming use under the previous zoning ordinance.
 - (3) (Applies to nonconforming setback or lot size only.) The nonconformity resulted from land acquisition by a government agency, such as for a road right-of-way.
 - (4) (Nonconforming parcel only.) Parcels previously conforming that are made nonconforming in area, width and depth of the parcel are considered legal nonconformities if the area, width and depth of parcel and the number of off-street parking spaces provided are at least 90% of minimum requirements for the current zoning district.
- C. Abandonment. When a nonconforming use of a structure or land is discontinued or abandoned for one year, the structure or land thereafter shall not be used for any use other than a conforming use of the district within which it is located.
- D. Reconstruction and restoration. No nonconformity (whether it is a structure, a use, or a sign) shall be enlarged upon or expanded (including extension of hours of operation) unless such alteration is in full compliance with all requirements of this chapter. Normal maintenance and incidental repair of a legal nonconformity shall be permitted, provided that this does not violate another section of this article.

- (1) Nothing in this article shall be deemed to prevent restoring a structure to a safe condition in accordance with an order of a public official who is charged with protecting the public safety and who declares such structure to be unsafe and orders its restoration to a safe condition, provided that such restoration is not otherwise in violation of the various provisions of this section prohibiting the repair or restoration of partially damaged or destroyed structure or signs.
 - (2) No nonconformity shall be moved in whole or in part, for any distance whatsoever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved, unless changes are being made to the site in conformance with other sections of this article.
 - (3) No use, structure or sign which is an accessory to a principal nonconforming use or structure shall continue after such principal use or structure shall have ceased or terminated, unless it shall thereafter conform to all regulations of this chapter.
 - (4) Any lawful nonconforming use damaged by fire, explosion, an act of God or by other causes may be restored, rebuilt or repaired, provided that the reconstruction or restoration work does not increase the gross floor area or value of the structure to more than which is permitted in other sections of this article.
 - (5) A dwelling nonconforming due to its location in a nonpermitted district may be expanded or enlarged, for residential purposes, by up to 50% of the existing ground floor area. An accessory building may be constructed or expanded upon the same lot.
- E. Repair. Nothing in this chapter shall prohibit the improvement or modernization of a lawful nonconforming building to allow for facility improvement, provided that such repair does not exceed 50% of the true cash value as determined by the state equalized value or increase the size of the primary structure by more than 30%. All improvements must be presented on a site plan developed in accordance with the data requirements of § 300-77 and approved by the Zoning Board of Appeals.
- F. Changing uses.
- (1) The Zoning Board of Appeals may authorize a change from one nonconforming use to another nonconforming use, provided the proposed use would be more suitable to the zoning district in which it is located than the nonconforming use which is being replaced. Whenever a nonconforming use has been changed to a more nearly conforming use or to a conforming use, such use shall not revert or be changed back to another nonconforming use unless such change shall be more nearly conforming.
 - (2) Transfer of ownership and use. Any nonconforming use status may be transferred with the same rights guaranteed the new owners as those belonging to the owners of record on the effective date of this chapter.
- G. Prior construction approval. Nothing in this chapter shall prohibit the completion of construction and use of a nonconforming building for which a building permit has

been issued prior to the effective date of this chapter, provided that construction is commenced within 30 days after the date of issuance of the permit and that the entire building shall have been completed according to plans filed with the permit application within one year after the issuance of the permit.

H. Nonconforming lots.

(1) A nonconforming lot of record may be used for any principal use permitted in the zone in which the lot is located, provided that for any use which is to be served by an individual well and/or septic system, the nonconforming lot shall be of a size and design to meet the minimum requirements of the Midland County Health Department for such well or septic systems.

(2) If the proposed use is to be a single residential dwelling such that the lot is physically unable to provide the open space or yard requirements of this chapter, those yard requirements shall be adjusted by the Zoning Administrator.

I. Nonconforming signs. Subject to the following schedule, a nonconforming sign may be continued and shall be maintained in good condition, but it shall not be:

(1) Changed to another nonconforming sign. Changes in copy, color, or general maintenance.

(2) Structurally altered so as to prolong the life of the sign unless brought into conformance with the provisions of this chapter.

(3) Expanded.

(4) Reestablished after its discontinuance for 90 days, or reestablished after damage or deconstruction, if the estimated expense of reconstruction exceeds 50% of the appraised replacement cost, as determined by the Building Inspector and/or Zoning Administrator.

§ 300-8. Supplementary use regulations.

A. Building permits required. Any construction related to any type of zoning administrative approval shall be commenced only after a building permit has been obtained.

B. Prior building permits. Any building permit issued prior to the effective date of this chapter shall be valid.

C. Fences and walls. Prior to the erection of allowable fences, walls and screening structures, a zoning permit must be acquired. No fence, wall, or structural screen, other than plant materials greater than six feet in height from the original grade, shall be erected on any residential property. Neither shall any fence, wall, or hedge planting exceed a height of three feet within 25 feet of the road edge or in the front yard in a residential district. On a corner lot, no fence or planting shall be allowed that will interfere with traffic visibility across a corner. No fence, wall, or screening structure in a residential area shall have barbed wire, electrified components or otherwise be intended to cause harm in preventing entry to property. Properties in excess of five acres and used for agricultural production or enclosure of farm or

domesticated animals are excluded from this provision. **[Amended 8-12-2015 by Ord. No. 97]**

D. Screening requirements.

- (1) Whenever screening is required between two zoning districts, there shall be provided at the time of development of any premises, and maintained thereafter, an obscuring screen which shall be a fence, wall, plant materials, or other screening device, or combination thereof that obstructs, at a minimum, 75% of the field of vision from the ground to a height of eight feet when viewed from a distance of five feet or more. Chain link fence is not acceptable screening. Open spaces within such screening shall not exceed a one-foot square, or exceed a two-foot square area when an elongated or irregular shape. Such screen shall be constructed in accordance with one or a combination of the following:
 - (a) A solid wall or solid fence, six feet in height, with a finished surface facing the residential district. All materials shall be new or other material if approved by the Building Inspector and/or Zoning Administrator. The use of stripping in chain link fence is not an acceptable method of complying with screening requirements.
 - (b) A landscape buffer not less than 15 feet in width consisting of a combination of earthen berm, fencing, and/or plant materials which will provide an obscuring screen.
 - (c) A buffer consisting of a combination of earthen berm, fencing, and/or plant materials which will provide an obscuring screen.
 - (d) All landscaped screening shall be a minimum of six feet in height as measured from the highest ground elevation within three feet on either side of the line separating the zoning districts. The height determined at the highest ground elevation within three feet shall be used for the entire length of the buffer.
- (2) The developer shall submit plans and specifications for the type of screening to be employed at the time application is made for a building permit.
- (3) The Zoning Board of Appeals may waive or modify these requirements where, in its opinion, the public interest would not be served by its strict application or the property owners on both sides of the buffer have agreed on an alternate means that achieves the intent and purpose of this Subsection D.

E. Inoperative or dismantled cars, trucks, recreational vehicles or buses. The storage of dismantled, wrecked and/or unlicensed vehicles, including recreational equipment, in any zoning district is expressly prohibited unless contained within a licensed junkyard or wholly within an enclosed structure. A dismantled, wrecked and/or unlicensed vehicle may be permitted to be stored outdoors, provided said storage does not exceed one week. Note that the storage period may be extended with written permission of the Building Inspector and/or the Zoning Enforcement Officer, not to exceed 30 days. It is further regulated by Chapter 277, Vehicle Storage and Repair, of the Code of the Charter Township of Midland.

- F. Storage of garbage. All garbage and rubbish must be stored in closed containers in a proper storage area or within a building until the time of collection. No garbage or rubbish may be stored for a period of more than two weeks, inside or outside, or so as to cause hardship, health hazard, or annoyance to adjoining properties.
- G. Space used once. Any yard or other open space provided around any building or structure for the purpose of complying with the provisions of this chapter shall not be used as a yard or other required open space for another building or structure existing or intended to exist at the same time as such building or structure.
- H. Use exceptions. Nothing in this chapter shall be constructed to prohibit the following accessory or incidental uses:
- (1) Customary refreshment and service uses and buildings in any public park or recreational area incidental to the recreational use of such area.
 - (2) Essential services as defined in Article II.
 - (3) Garden, garden ornaments and usual landscape features within required yard space.
 - (4) Fences within required yard space provided the standards cited in § 300-8C are met.
 - (5) Retaining walls and public playgrounds.
 - (6) Off-street parking for motor vehicles as specified in Article IV, § 300-18.
 - (7) Home occupations as specified in residential district regulations and Article II.
 - (8) Use of premises as a voting place in connection with local, state or national elections.
- I. Sand and gravel excavation. The excavation of sand, gravel, clay, topsoil or other earthwork is hereby regulated by Chapter 240, Soil Removal, of the Code of the Charter Township of Midland.
- J. Parking of recreational equipment. Parking of recreational equipment owned by and licensed to an occupant of the dwelling unit is permitted within any residential or agricultural zoning district, except as follows:
- (1) Within 20 feet from the road right-of-way.
 - (2) Within the required front yard area.
 - (3) Within four feet to any side or rear property line.
 - (4) Within any area that qualifies as a clear vision area.
 - (5) In multifamily developments, all parking and storage of recreation vehicles must be in a rear yard and approved by the owner of the property.
- K. Parking of licensed vehicles. All licensed vehicles must be parked on an approved surface, as determined by the Zoning Administrator. One commercial vehicle, regardless of weight, may be parked overnight and on Saturdays, Sundays and

holidays off the street and on an approved surface of the property of the vehicle's owner or custodian, provided that once it is parked, it is not moved or operated. Parking of a semitrailer or a tractor/trailer combination is prohibited in any residential district, nor shall any tractor run its engine for more than 15 minutes continuously at a residential site.

- L. Garage/yard sales. Sales of used material from a single-family dwelling's side yard, rear yard or garage may occur twice a year for a period not to exceed four days for each occurrence.
- M. Auto repair. Repair of vehicles not owned by a resident of the parcel on which such activity is occurring is expressly prohibited in any residential zoning district.
- N. Soil erosion and sedimentation control. The provisions of the Soil Erosion and Sedimentation Control Act of 1972,⁶ as amended, shall apply to all land uses, premises and earth changes as defined and regulated in said Act.
- O. Groundwater protection. All uses shall comply with the following provisions:
 - (1) Wastewater treatment systems, including on-site septic systems, shall be located to minimize any potential degradation of surface water or groundwater quality.
 - (2) Sites which include storage of hazardous materials or waste, fuels, oil, salt, fertilizers or chemicals shall be designed and constructed to prevent spills and discharges of polluting materials to surface of the ground, groundwater or nearby water bodies.
- P. Floodplain management. No building, structure, or dwelling designed, constructed, intended, or used for human occupancy shall be moved on, constructed, erected, or occupied in the 100-year floodplain of the Pine and Tittabawassee Rivers and their tributaries without first complying with the provisions of Ordinance No. 45, Floodplain Management Amendment to Construction Code of the Charter Township of Midland.⁷

§ 300-9. Supplementary parcel regulations.

- A. Permitted yard encroachments.
 - (1) Driveways shall not be subject to yard requirements.
 - (2) Paved terraces, patios and uncovered porches, excluding driveways, shall not be subject to yard requirements, provided:
 - (a) The area is unroofed and without walls or other forms of solid continuous enclosure that link the area to the principal dwelling. Such areas may have noncontinuous windbreaks or walls not over six feet high and not enclosing more than 1/2 the perimeter.

6. Editor's Note: The Soil Erosion and Sedimentation Control Act of 1972, MCLA § 282.101 et seq., was repealed 5-24-1995 by P.A.1994, No. 451, § 90102. See now MCLA § 324.9101 et seq.

7. Editor's Note: Ordinance No. 45 was repealed without replacement 4-11-2007 by Ord. No. 93.

- (b) The highest finished elevation is not over two feet above the average surrounding finished grade area.
 - (c) No portion of any paved area is closer than five feet from any lot line nor projects into any front yard setback area.
 - (3) Unenclosed covered or uncovered porches or decks may project into a required side or rear yard area a distance not to exceed four feet, provided:
 - (a) The porch is no higher than one story and is erected on supporting piers.
 - (b) The porch shall not be closer than five feet to any side or rear lot line.
 - (4) Enclosed porches shall be considered part of the principal building and shall be subject to all yard and area dimensional requirements established for principal buildings.
 - (5) Signs may encroach into yard area but no sign, or portion thereof, shall be closer to any lot line or street right-of-way than 10 feet.
- B. Yard exceptions. In cases where less than the full required future right-of-way width of the street has been deeded or dedicated and is represented in the survey of the property, the building setback on any property abutting thereon shall be measured from the future required 66 feet of road right-of-way line. The required street width shall be determined by the standards set forth and adopted by the Midland County Road Commission.
- C. Access to a street. Any lot of record created after the effective date of this chapter shall have frontage on a public street, or as may otherwise be specifically approved by the Zoning Board of Appeals.
- D. Ponds. Ponds are permitted as a landscaping enhancement to a residential use subject to the following:
 - (1) Excavation guidelines.
 - (a) Soils excavated for the creation of ponds may not be taken off the parcel site.
 - (b) Sites of ecological significance, such as wetlands, should be avoided.
 - (c) Ponds should be located in areas which will minimize the chance of pollution from sources such as feedlots, farmsteads, corrals or septic tanks.
 - (d) Excavations may not extend closer than 50 feet to a power line.
 - (e) Side slopes must not exceed a four to one slope for a distance of 25 feet out from pond edge.
 - (f) Parcels must be at least five acres in area.
 - (g) All ponds' edges must be set back a minimum distance of 50 feet from any lot line.

- (2) Ponds of less than 500 surface feet may be constructed without site plan approval.
 - (3) Ponds greater than 500 surface feet may be constructed after site plan review and issuance of a building permit by the Township. The site plan should be submitted according to the requirements of § 300-78. Ponds greater than 1,500 surface feet are subject to special approval under Article XII of this chapter.
 - (4) No building permit will be issued for any pond unless and until the property owner can produce an approved permit from Midland County Drain Office for soil erosion control and can demonstrate that this pond is not a regulated wetland, as identified by the State of Michigan.
- E. Freestanding solid-fuel-burning furnaces. Such structures shall be regulated in accordance with the provisions for residential detached accessory structures, § 300-11. The storage of wood or other solid fuel shall be considered as an accessory structure, § 300-11. The use of freestanding solid-fuel-burning furnaces is prohibited on parcels less than one acre in size and/or parcels with less than 100 feet of frontage.

§ 300-10. Supplementary height regulations.

- A. Permitted exceptions for structural appurtenance. The following kinds of structural appurtenances shall be permitted to exceed the height limitations for authorized uses.
- B. Permitted exceptions: residential districts.
- (1) No height exceptions are permitted for residential structures.
 - (2) Principal hospital and church structures may be permitted to exceed height limitations with a maximum total height limit of 75 feet, provided each front, side and rear yard requirement is increased one foot for each additional one foot above the district requirement.
 - (3) Ornamental in purpose, such as church steeples, belfries, cupolas, domes, ornamental towers and flag poles, provided that such structural elements do not exceed 20% of the gross roof area.
- C. Permitted exceptions: business and industrial districts.
- (1) In any business or industrial district, any principal building may be erected to a height in excess of that specified for the district, provided each front, side and rear yard minimum is increased one foot for each additional one foot of height above the district requirement.
 - (2) In commercial and industrial districts, appurtenances to mechanical or structural functions, such as chimneys and smokestacks, water tanks, elevator and stairwell penthouses, ventilators, radio or television towers, aerials, windmills, and fire and base towers, provided the total height of the structure of the building and appurtenances be 175 feet or less from the ground. The forgoing permitted exceptions shall not be for human occupancy or dwelling.

§ 300-11. Accessory buildings.

- A. Required yards. The following regulations apply to all districts unless otherwise stated:
- (1) Front yard. Except as set forth herein, no accessory building shall project into any front yard. On parcels of 10 acres or more and having a front yard of greater than 300 feet, accessory buildings may be located in the front yard not less than 100 feet from the front lot line. **[Amended 8-12-2015 by Ord. No. 97]**
 - (2) Side yard. No accessory building, including attached or detached garages, shall be erected closer to any side lot line than the permitted distance within that district for principal buildings, except in residential districts, accessory buildings may be set a minimum of 10 feet from the lot line.
 - (3) Rear yard. No accessory building, including attached or detached garages, shall be erected closer to rear lot line than permitted distance within the district for the principal building, except in a residential district, accessory buildings may be a minimum of five feet from the rear lot line.
 - (4) On a corner lot. No accessory building shall be closer to the side street lot line than the front yard setbacks of the principal building on the lot. Where the rear line of a corner lot coincides with sideline of an adjoining lot in a residential district, an accessory building shall not be closer than five feet to the rear lot line.
 - (5) Must get a zoning permit for any accessory building under 200 square feet.
 - (6) All accessory buildings must be located a minimum of 10 feet from any other structure.
- B. Maximum size. Accessory buildings may occupy not more than 4% of the lot area.
- C. Height. In a residential district, the height of an accessory building may not exceed a total height of 25 feet.
- D. Uses. Accessory building(s) shall not be used in any part for residential dwelling purposes and are intended only for typical accessory functions for the district in which they are located.
- E. Garages as accessory buildings. Garages not physically connected to the dwelling or principal use by common wall or roof shall be deemed as "accessory buildings" for the purposes of this chapter. In no case shall the entrance or roof of a garage be less than 45 feet from a front lot line. Attached garages shall be considered part of the principal use or dwelling.
- F. Storage containers. In a residential zoning district, no building nor structure initially constructed or designed for use as a mobile home, mobile office, shipping container, recreational vehicle, other vehicle or parts of vehicles, including trucks, buses, truck cabs, truck boxes and semitrailers, shall be used as an accessory building or for storage. **[Added 7-10-2019 by Ord. No. 104]**

§ 300-12. Required water supply and sanitary sewerage facilities.

After the effective date of this chapter, no structure shall be erected, altered or moved upon a lot or premises and used in whole or in part for a dwelling, business, industrial or recreational purpose unless it shall be provided with a safe, sanitary and potable water supply and with a safe and effective means of collection, treatment and disposal of human excreta and domestic, commercial and industrial waste. All such installations and facilities shall conform with the minimum requirements of the Midland County Health Department and applicable state and federal regulations.

§ 300-13. Animals and fowl other than household pets.

It is prohibited to keep animals or fowl other than household pets in residential or business districts unless when adequately housed and fenced, the parcel is at least five acres in area; where the building housing the animal is at least 500 feet from the nearest adjoining residence and the fence or corral is a minimum of 100 feet from the nearest adjoining residence.

§ 300-14. Supplementary dwelling regulations.

- A. Must comply with code requirements. Every dwelling must comply with all adopted construction codes. This includes meeting or exceeding all applicable roof snow loads and strength requirements. If the dwelling is a manufactured home, all construction, insulation, plumbing, or electrical apparatus shall conform to the "Mobile Home Construction and Safety Standards" of the United States Department of Housing and Urban Development. Where any state or local regulation sets a more stringent standard than the "Mobile Home Construction and Safety Standards," then the state or local standard shall apply.
- B. Manufactured home installation. In the event that a dwelling is a manufactured home, it must be installed pursuant to the manufacturer's setup instructions with the wheels removed. It also must be secured to the ground by an anchoring system or device complying with the Township Building Code and the rules and regulations of the Michigan Mobile Home Commission. Each manufactured home must have a perimeter wall or skirting which has the same dimensions as the dwelling. No manufactured home shall have any towing mechanism, undercarriage or chassis exposed.
- C. Structures to be of uniform quality. Any additions, rooms or other areas of a dwelling must be constructed using workmanship and materials similar in quality to the original structure. Such additions, rooms or other areas must be permanently attached to the principal structure and must be supported by a foundation as required herein.
- D. Aesthetically compatible. Dwellings must be aesthetically compatible in design and appearance with other residences in the vicinity, with a roof overhang of not less than six inches on all sides and contain steps connected to the exterior door areas where a difference of elevation requires steps. The compatibility of design and appearance shall be determined initially by the Township Zoning Administrator upon review of the plans submitted for a dwelling.

- (1) The determination of aesthetic compatibilities is subject to appeal by an aggrieved party to an Appeals Board.
 - (2) Any determination of compatibility shall be based on the standards set forth herein, as well as the character, design, and appearance of one or more residential dwellings located outside of mobile home parks and within 2,000 feet of the subject dwelling, where such area has at least 20% of lots developed, or where said area is not so developed, by the character, design, and appearance of one or more residential dwellings located outside of manufactured home parks throughout the Township.
 - (3) The foregoing shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour, or relief from the common or standard home design.
- E. Maintenance. A dwelling must be properly maintained and protected against deterioration and damage from the elements or the passage of time, by prompt and appropriate repairs, surfacing, coating and any other necessary protective measures.
- F. Use of manufactured home for temporary dwelling. A temporary dwelling may be placed on the premises and occupied on a temporary basis subject to the following: **[Amended 8-12-2015 by Ord. No. 97]**
- (1) Temporary dwellings may be located and occupied only during the construction of a single-family dwelling upon the parcel on which the temporary dwelling is placed or during the repair of a single-family dwelling which had been occupied up to the date it was damaged, by casualty or otherwise, to the degree that it cannot be occupied. A permit issued by the Building Inspector shall be required prior to the location and occupancy of such temporary dwellings.
 - (2) The Building Inspector, upon application of the parcel owner, may issue a permit for such temporary occupancy upon finding that these provisions are satisfied. A permit for temporary occupancy during construction of a single-family dwelling shall not exceed six months' duration. A permit for temporary occupancy during repairs of a single-family dwelling damaged by casualty shall not exceed six months' duration. Such permits may be renewed by the Building Inspector one time only for a period not to exceed the applicable six-month period of the initial permit.
 - (3) The temporary dwelling shall be a mobile home meeting all construction insulation, plumbing, and electrical apparatus standards of the "Mobile Home Construction and Safety Standards" of the United States Department of Housing and Urban Development.
 - (4) The temporary dwelling shall be located only on the same parcel as the dwelling under construction or repair.
 - (5) The proposed water supply and sanitary facilities must be inspected and approved by the Midland County Health Department.
 - (6) A building permit must have been issued to the parcel owner(s) for

construction or repair of a single-family dwelling on the parcel.

- (7) The temporary dwelling must comply with all setback and lot coverage requirements for the applicable zoning district.
- G. Storage area. Every dwelling unit must contain a storage area equal to 10% of the square footage of the dwelling or 100 square feet, whichever is less, in a basement located under the dwelling, an attic area, closet areas, or in a separate structure which meets all requirements of the Township Building Code.
- H. Foundation. All single-family dwellings, except mobile homes located in mobile home parks, must be firmly attached to a permanent foundation meeting the Township Building Code requirements. The walls for a dwelling must have the same perimeter dimensions as the dwelling.
- I. Dimensions. All single-family dwellings must have a minimum width across front, side, and rear elevations of 24 feet and comply in all respects with the Township Building Code, including minimum heights for habitable rooms.
- J. Roof. All one- or two-family dwellings, other than mobile homes located inside mobile home parks, must have a pitched roof, the principal portion of which has a slope of no less than one vertical unit to four horizontal units. The eaves of the roof must project no less than six inches beyond the walls.
- K. Exterior doors. Every single-family dwelling must have exterior doors on not fewer than two sides with steps and porches connected to the doors where required due to a difference in elevation.

ARTICLE IV
General Off-Street Parking and Loading

§ 300-15. Purpose and intent.

It is the purpose and intent of this chapter that off-street parking and loading areas be provided and adequately maintained in every zoning district for the purposes of promoting safe and efficient storage of motor vehicles; to avoid unnecessary congestion and interference with public use of streets; and to provide for sound and stable environmental conditions and the prevention of future blighted areas.

§ 300-16. Off-street parking and loading requirements.

- A. In all zoning districts, off-street parking and loading requirements shall be provided in amounts not less than those specified for the various districts.
- B. Requirements for a use not mentioned shall be the same for that use which is most similar to the use not listed.
- C. Additional parking shall be provided and maintained in proper ratio to any increase in floor area or building use capacity.
- D. For the purpose of determining off-street parking and loading requirements, the following provisions shall apply:
 - (1) In mercantile establishments, "gross floor area" shall mean the floor area used for service to the public. It shall not include floor area used for storage or the processing and packaging of merchandise where it is carried on in a room in which service to the public is not involved.
 - (2) In hospitals, bassinets shall not be counted as beds.
 - (3) Where benches, pews or other similar seating facilities are used as seats, each 20 inches of such seating shall be counted as one seat.
- E. It shall be unlawful to use any of the off-street parking or loading areas established to meet the requirements of this chapter for any purpose other than the parking of licensed vehicles or the loading or unloading of necessary service trucks.
- F. In commercial and industrial areas, parking and loading setback areas shall conform to twenty-foot front yard and street side yard requirements and off-street parking shall be no closer to any principal building than five feet. Bumper guards or curbs shall be installed to prevent yard encroachment.
- G. Parking and loading areas may be extended to the property line except as herein above specified by § 300-16F.
- H. The landscaping must be maintained and kept alive.

§ 300-17. Site development and construction requirements.

- A. Surface material.
 - (1) Off-street parking, loading and circulation areas for all uses shall be surfaced

with a material that shall provide a durable, smooth and dustless surface, as defined below, and shall be graded and provided with adequate drainage to dispose of all collected surface water.

- (2) Surface material shall be concrete or asphalt, or another such pavement system approved by the Township.
 - (a) Typical surfacing shall take place with either:
 - [1] Four inches of portland cement concrete; or
 - [2] Two and one-half inches of asphalt surface laid over a base of crushed stone with a compacted thickness of six inches.
 - (b) Except that for the following uses, parking spaces, strips or aprons can be asphalt, concrete or six inches of stone mix or gravel, which must be maintained and clearly defined:
 - [1] Single-family dwellings.
 - [2] Campground/RV park.
 - [3] Animal boarding.
 - [4] Riding stable.
 - [5] Grain elevator.
 - [6] Game area/nature preserve.
 - [7] Picnic area.
 - [8] Park.
 - [9] Gun club.
- B. Marking required. The property owner shall delineate car stalls, directional arrows and crosswalks within parking areas using paint or other methods approved by the Zoning Administrator.
- C. Drainage. Stormwater collection, drainage and retention structures meeting all requirements of the Midland County Road Commission and the Midland County Drain Office shall be installed for all off-street parking areas. Care should be taken to integrate any required detention or retention into the site during the design process.
- D. Driveways and aisles. Adequate ingress and egress to the parking areas by means of clearly marked and limited drives shall be provided. Driveways and aisles for any off-street parking area built to accommodate more than 20 vehicles shall comply with the following requirements:
 - (1) Aisle width. Aisles in off-street parking areas shall be at least 20 feet wide.
 - (2) Driveway configuration. Each driveway shall be a minimum of 15 feet and a maximum of 20 feet in width per direction. Lanes for entering and exiting

traffic shall be clearly marked on the pavement. The driveway shall include on-site stacking area, which does not function as an access aisle for parking spaces, equivalent to 5% of the total number of spaces in the parking area. The driveway shall intersect the abutting street at a 90° angle.

- (3) Shared access. The Planning Commission must require shared access between and among uses where feasible, excluding single-family residential uses. Feasibility is determined with respect to the physical design of the site and not the effort or costs involved with achieving joint access. This requirement applies to driveways and access drives associated with site redevelopment or new construction. In the case of new development, a joint driveway agreement must be signed by all property owners involved prior to a construction permit being issued. Driveways must be designed to allow joint access in the future, where feasible, and an agreement to allow future use of the drive for joint access must be signed at the time of site plan approval. Shared drives must be shown on site plans at the time of review by the Planning Commission. Refusal to design a site with provisions for joint access or refusal to participate in a joint access agreement is justification for site plan denial by the Planning Commission.
 - (4) Driveway closure. Nonconforming driveways, per this chapter, shall be made to be less nonconforming at the time a site is redeveloped. Lessening the degree of driveway nonconformance may include the Planning Commission requiring closing a driveway or combining driveways or access points at the time of site plan review.
 - (5) Driveway spacing. Each parcel shall be limited to no more than one driveway entrance and exit opening (including a shared driveway) to any public street for each 300 feet of frontage, or fraction thereof. They shall be located at least 150 feet apart as measured from center line to center line. No driveway shall be located within 30 feet of a neighboring property line as measured from the end of the radii, or within 50 feet of any intersecting existing or proposed road right-of-way unless it is designed as part of a joint access.
- E. Where a required parking area of more than 10 spaces adjoins a parcel zoned for residential use, the parking area shall be screened by a solid masonry wall or uniformly treated wood fence not less than five feet high, and/or by a maintained evergreen planting strip. The planting strip shall provide a solid visual barrier at least five feet high and may include a berm. The Planning Commission and/or Zoning Administrator may allow and/or require the retention of a wooded or treed area as a visual screen and buffer to a residential area instead of a planting strip or other such visual barrier.
- F. Drive-through facility stacking lanes. A property owner proposing a drive-through facility shall provide seven stacking spaces for each drive-through station in addition to the parking required by this section. Each lane of stacking space must be at least nine feet wide and must be delineated with pavement markings. Each stacking space must be at least 12 feet long; however, individual spaces within the lane need not be delineated with pavement markings. Stacking lanes may not be located within the required driveway, internal circulation drive or parking aisle widths. Parking as specified and/or provided in any residential district shall not be

allowed to encroach into the front yard area.

- G. Solid waste collection facilities. The following rules are intended to prevent unhealthful or unsightly conditions regarding solids waste handling facilities. These rules apply to any solid waste container large enough to require a mechanical device to empty it.
 - (1) Enclosure. Each such container must be located in an enclosure which is screened on at least three sides by an opaque wood or metal fence (excluding chain link) or masonry wall at least as high as the container. The fourth side of said enclosure may be left open if the container has a lid which is kept locked except when waste is being deposited or removed.
 - (2) Paving. Solid waste enclosures and an approach area for trucks shall be paved with reinforced concrete not less than nine inches thick.
 - (3) Location. Solid waste enclosures and containers shall be situated so that trucks collecting waste from the container shall not conflict with the orderly flow of traffic onto or through the parcel or any parking spaces thereon. Solid waste enclosures or containers shall be located so that trucks collecting waste will not block any portion of a public street or alley.

§ 300-18. Off-street parking requirements.

The minimum number of off-street parking spaces by type of use shall be determined in accordance with the following schedule:

Use	Minimum Number of Standard Off-Street Parking Spaces Per Unit of Measure
Residential	
Residential, one-family and two-family	1 for each dwelling unit
Mobile home parks	2 for each mobile home unit
Institutional	
Religious institutions or buildings of similar use with fixed seats	1 for each 5 seats
Hospitals	1 for each 3 patient beds, plus 1 space for each staff doctor or visiting doctor plus 1 space for each employee on maximum working shift
Human care institutions	1 space for each 4 beds, plus 1 space for each employee including nurses on maximum working shift
Preschool care (day nurseries) (commercial)	1 for each employee
Elementary and middle schools	1 for each 1 teacher and administrator, in addition to the requirements of the auditorium

Use	Minimum Number of Standard Off-Street Parking Spaces Per Unit of Measure
Senior high schools and colleges	1 for each 1 teacher and administrator, in addition to the requirements of the auditorium
Public office building not elsewhere specified	1 for each 300 square feet of gross floor area, plus 1 space for each employee employed herein
Private golf clubs, swimming pool clubs, tennis clubs or other similar uses	1 for each 2 member families or individual and 1 employee
Golf courses open to the general public, except miniature or par-3 courses	6 for each 1 golf hole and 1 for each employee
Theaters and auditoriums	1 for each 4 seats, plus 1 for each employee on maximum working shift
Stadium, sports arena or similar place of outdoor assembly	1 for each 3 seats or 6 feet of benches, and 1 for each employee on a maximum working shift
Business and commercial	
Auto wash	1 for each employee. In addition, adequate waiting space for autos shall be provided on the premises to accommodate 10% of the hourly rate of capacity.
Beauty parlor or barbershop	3 spaces for each of the first 2 beauty or barber chairs and 1 space for each additional chair
Bowling alleys	4 for each 1 bowling lane, plus 1 for each employee on maximum shift
Assembly halls, without fixed seats, for commercial recreation, including dance halls, pool or billiard parlors, skating rinks, lodge halls and exhibition halls or buildings for similar assembly uses	1 space for each 50 square feet of gross floor area used for permitted use
Establishments for sale and consumption on the premises of beverages, food or refreshments	1 for each 100 square feet of usable floor space, except as otherwise specified herein
Drive-in restaurants or similar drive-in uses for the sale of beverages, food or refreshments	1 for each 50 square feet of floor area
Furniture and appliances, household equipment, repair shops, showroom of a plumber, decorator, electrician or similar trade, shoe repair and other similar uses	1 for each 800 square feet of usable floor area; 1 additional space shall be provided for each person employed on maximum working shift

Use	Minimum Number of Standard Off-Street Parking Spaces Per Unit of Measure
Laundromats and coin-operated dry cleaners	1 for each 2 washing machines
Miniature or par-3 golf courses	3 for each 1 hole plus 1 for each employee
Funeral home	1 for each 100 square feet of usable floor space, plus 1 for each employee on maximum working shift
Motel, hotel or other commercial lodging establishment	1 for each 1 occupancy unit, plus 1 for each employee on maximum work shift, plus extra spaces for dining rooms, ballrooms or meeting rooms as required above (for assembly halls and establishments for the sale and consumption of beverages and food), where the capacity of such areas exceeds the number of beds in the building
Motor vehicle sales or service establishment	1 for each 200 square feet of usable floor space of sales room and 1 for each 1 auto service stall in the service room
Retail stores except as otherwise specified herein	1 for each 200 square feet of usable floor space, plus 1 for each employee on maximum working shift
Offices	
Banks	1 for each 300 square feet of usable floor space
Business offices	1 for each 300 square feet of usable floor space
Professional offices of lawyers, architects, accountants, etc.	1 for each 300 square feet of usable floor space
Professional offices of doctors, dentists or similar professions	1 for each 20 square feet of usable floor area in waiting rooms, and 1 for each examining room, dental chair or similar use area
Industrial	
Industrial or research	1 for each employee on the maximum working shift, plus 5 additional
Wholesale establishments	1 for each employee on the maximum working shift, plus 5 additional

§ 300-19. Shared parking.

- A. General. The Zoning Administrator may approve shared use of parking facilities located on separate properties if:
 - (1) The properties are within 500 feet and do not require pedestrians to cross a

primary thoroughfare.

- (2) The availability of all affected properties is indicated by directional signs as permitted by Article V, Sign Regulations by District.
- B. Number of spaces required. In case of a situation where there is more than one use in a single structure, the following off-street parking regulations may apply. The Planning Commission shall have the power to reduce parking further in the case of shared drives, shared parking or other circumstances where a reduction in parking will contribute to the safety, function or overall site design.
- (1) For two uses per structure: 80% of the otherwise combined required parking.
 - (2) For three uses: 75%.
 - (3) For four uses: 70%.
 - (4) For five or more: 65%.
 - (5) In no case shall less than 65% be allowed.
- C. Documentation required. Prior to establishing shared use of parking, the property owner or owners shall file with Midland Charter Township a written agreement approved by the Zoning Administrator providing for the shared parking use. The agreement shall be recorded on the deed of each affected property.

§ 300-20. Permit.

No parking lot shall be constructed unless and until a permit therefor is issued as specified by Article XIII, §§ 300-76 and 300-77.

§ 300-21. Loading requirements.

A property owner shall provide an off-street loading space that can access a public street. The number and size of loading spaces must be equal to the maximum number and size of vehicles that would be simultaneously loaded or unloaded in connection with the business conducted on the property.

- A. Standard requirement. Each loading space must be a minimum of 10 feet wide and 55 feet long. Where a loading space is adjacent to an arterial road, the property owner shall provide an additional 40 feet in maneuvering length.
- B. Reduction. The Zoning Administrator may reduce the required stall length and maneuvering length if the property owner demonstrates that known delivery vehicles can park and maneuver within the proposed loading and maneuvering spaces so that no part of a vehicle using or maneuvering into the loading space projects into a public right-of-way, access easement or private road.
- C. Waiver. If the property owner demonstrates that the development has and will have no loading needs, the Zoning Administrator may waive the requirements of Subsections A and B of this section.

§ 300-22. Lighting.

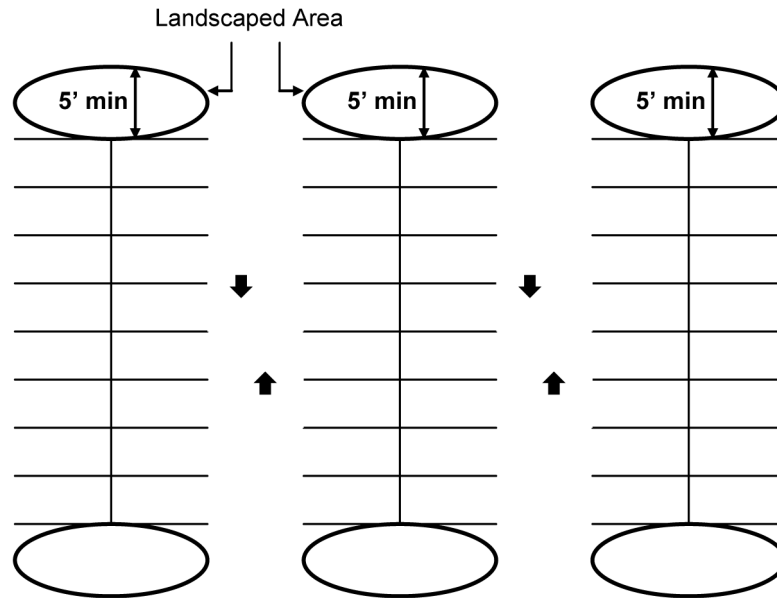
- A. Parking area and other exterior on-site lighting fixtures shall not exceed a height of 12 feet when located within 200 feet of a residential district and, further, may not exceed a height of 16 feet.
- B. Exterior lighting shall be so arranged that it is deflected away from adjacent residential districts and adjacent streets.

§ 300-23. Landscaping.

Landscaping is intended to provide visual separation of uses from streets and visual separation of compatible uses so as to add natural materials that enhance the appearance of street, parking areas and building elevations.

- A. Required amount. If the parking area contains no more than 50 parking spaces, at least 20 square feet of landscape development must be provided for each parking stall proposed.
- B. If the parking area contains more than 99 parking spaces, at least 40 square feet of landscape development must be provided for each parking stall proposed.
- C. If the parking area contains more than 50 but less than 100 parking spaces, the Building and Zoning Administrators shall determine the required amount of landscaping by interpolating between 20 and 40 square feet for each parking stall proposed.
- D. Landscaping material and standards. Each area of landscaping must be at least 100 square feet of area in size and must be at least four feet in any direction. The area must contain at least one tree at least six feet in height. A minimum size of 1 1/2 inches in caliper must be met if it is deciduous. The remaining ground area must be landscaped with plant materials, grass, decorative mulch or unit pavers, as approved by the Zoning Administrator. No landscaping shall interfere with visibility within the parking area.
- E. A landscaped area must be placed at the end of each parking row in a multiple lane parking area. This area must be at least four feet wide and must extend the length of the adjacent parking stall.

Multiple Lane Parking Area



- F. Plantings used to buffer a parking area, parking access, or development on the site other than a building shall use any of the following alternatives unless otherwise noted:
- (1) Shrubs, a minimum of 3 1/2 feet in height, and living ground cover must be planted so that the ground will be covered within three years.
 - (2) Earth-mounding, an average of 3 1/2 feet in height, planted with shrubs or living ground cover so that the ground will be covered within three years.
 - (3) A combination of earth-mounding and shrubs to produce a visual barrier at least 3 1/2 feet in height.
 - (4) Retention of wooded areas or mature trees which, by their nature, provide a visual screen.

ARTICLE V
Sign Regulations by District

§ 300-24. Intent and purpose.

- A. These sign standards are being ordained pursuant to MCLA § 252.304 of the Highway Advertising Act of 1972⁸ to preserve the public health, safety and welfare of Midland Charter Township.
- B. These sign standards are adopted to:
 - (1) Maintain and enhance the aesthetics of our community.
 - (2) Minimize the adverse effects of signs on nearby public and private property.
 - (3) Minimize driver distraction.
 - (4) Avoid excessive signage.
 - (5) Avoid obstacles, distractions or traffic hazards which impair a traveler's ability to see pedestrians, traffic signs or vehicles.
 - (6) Enhance the effectiveness of necessary directional and warning signs.
 - (7) Preserve property values.
 - (8) Provide for the effectiveness of permitted signs.
- C. The standards in this chapter are determined to be the minimum necessary to achieve the above stated purposes.

§ 300-25. Permitted signs.

- A. The following sign regulations by zone are intended to include every zone in the community. Only signs as described herein and as may be described under § 300-27, Temporary signs, and § 300-28, Exemptions, will be permitted in each particular zone.
- B. Prior to construction or establishment of any sign, a permit shall be obtained from the Building Inspector and/or Zoning Administrator.
- C. A sign permit shall become null and void if the work for which the permit was issued has not been completed within a period of six months after the date of the permit. The following operations shall not be considered as creating a sign, therefore shall not require a sign permit:
 - (1) Replacing copy. The changing of the advertising copy or message on an approved painted or printed sign or billboard or on a theater marquee and similar approved signs which are specifically designed for the use of replaceable copy. This does not include changing the face of a sign or replacing a face of a sign.

8. Editor's Note: See MCLA § 252.301 et seq.

- (2) Maintenance. Painting, repainting, cleaning and other normal maintenance and repair of a sign or sign structure unless a structural change is made. This does not include changing the face of a sign or replacing a face of a sign.
- (3) Temporary signs, per § 300-27, and signs under § 300-28, Exemptions, including Subsections A through E, of this Code are also exempt from permit requirements.

§ 300-26. Prohibited signs; district regulations.

A. The following signs are prohibited unless a variance shall be applied for and granted by the Township Board of Zoning Appeals:

- (1) Contain statements, words or pictures of an obscene, indecent or immoral character, such as will offend morals or decency.
- (2) Contain or are in imitation of an official traffic sign or signal or contain the words: "stop," "go slow," "caution," "danger," "warning" or similar words.
- (3) Are of a size, location, movement, content, coloring or manner of illumination which may be confused with or construed as a traffic control device or which hide from view any traffic or street sign or signal.
- (4) Advertise any activity, business, product or service no longer conducted on the premises upon which the sign is located.
- (5) Move in any manner or have a major moving part or contain or consist of banners, posters, pennants, ribbons, streamers, strings of light bulbs, spinners or other similarly moving devices. These devices, when not part of any sign, are similarly prohibited, unless they are permitted specifically by other legislation.
- (6) Any sign or other advertising structure or display which conveys, suggests, indicates or otherwise implies by pictures, drawings, words, emblems, logos, or other communication methods, including, but not limited to, the following:
 - (a) Human genitalia.
 - (b) Sexual acts.
 - (c) Nude human bodies.
 - (d) Obscene words.
 - (e) Obscene gestures.
- (7) Any sign, except traffic or other municipal-approved signs, as permitted in this chapter that is located in or projects into or over a public right-of-way or dedicated easement. No portion of a privately owned sign, or its supporting structures, such as poles or cables, shall be placed on or within the air space above publicly owned property, a public right-of-way (such as a street or sidewalk), or a proposed public right-of-way.
- (8) Placards, posters, circulars, show bills, handbills, political signs, cards, leaflets

or other advertising matter, except as otherwise provided herein, shall not be posted, pasted, nailed, placed, printed, stamped or in any way attached to any fence, wall, post, tree, sidewalk, pavement, platform, pole, tower, curbstone or surface in or upon any public easement, right-of-way or any public or private property whatsoever; provided, however, nothing herein shall prevent official notices of the Township, school districts, county, state, or federal government from being posted on any public property deemed necessary. All placards, posters, circulars, show bills, handbills, political signs, cards, leaflets or other advertising matter posted, pasted, nailed, placed, printed, stamped on any right-of-way or public property may be removed and disposed of by the Midland Charter Township Building Inspector and/or Zoning Administrator, Township Code Enforcement Officers, and/or other staff so designated by the Township Board or Township Manager without regard to other provisions of this chapter.

- (9) Display or parking a motor vehicle or trailer, boat or other similar vehicle on a lot or premises in a location visible from a public right-of-way, for the primary purpose of displaying a sign attached to, painted on or placed on the vehicle or object, with the exception of vehicles used regularly in the course of conducting the principal use located on the premises.

B. District regulations.

(1) Residential districts.

(a) General.

[1] No permanent signs shall be allowed in residential R-1 Residential Districts on properties used for residential purposes. All other nonresidential uses shall meet the requirements specified for R-2 Residential Districts.

[2] Signs are permitted only in R-2 Residential Districts.

- (b) Size. For multiple dwellings, one sign totaling 16 square feet in area shall be permitted. Monument signs shall not exceed four feet in height. For nonresidential uses, one sign totaling 24 square feet in area shall be permitted. Monument signs for nonresidential uses shall not exceed six feet in height.
- (c) Type. Wall or monument sign.
- (d) Electronic message boards. Electronic message boards are not permitted in any residential district other than those allowed as a temporary sign.
- (e) Location. Permitted signs may be anywhere on the premises, except as specified within yard area (refer to § 300-9).
- (f) Illumination. Illumination, if used, shall be white light, backlit and shall not be blinking, fluctuating or moving. Light rays shall shine only upon the sign or upon the property within the premises and shall not spill over the property lines in any direction except by indirect reflection.

- (2) Business districts.
- (a) General. This section of this chapter shall apply to all areas designated by this chapter as "B" Business Districts.
 - (b) Size. A total sign area of 1 1/2 square feet for each lineal foot of building frontage or 1/2 square foot for each lineal foot of lot frontage, whichever results in the larger sign area, except that within B-1 and B-2 Districts, the permitted sign shall not exceed 1/4 square foot for each lineal foot of lot frontage and the total sign shall not exceed 35 square feet per face.
 - (c) Electronic message boards. Electronic message boards, digital signs and other such similar devices are permitted in business districts no greater than 24 square feet. The total sign size, inclusive of any electronic message board, is subject to the size and height limitations for each district. Only one electronic message board is permitted per parcel, regardless of its location on the parcel.
 - (d) Type. Wall, monument, pole mounted, marquee, canopy sign.
 - (e) Location. Signs may be flat-wall signs and located anywhere on the surface of the building.
 - [1] All projecting or pole-mounted signs shall have a minimum clearance of eight feet above a sidewalk.
 - [2] Permitted pole-mounted or monument signs that are braced by their own supports or props may be located anywhere on the premises except as specified within required yard areas (refer to § 300-9). Pole-mounted signs may be extended up to 12 feet above the average ground level at the base of the sign, except monument signs shall not be over four feet above the average ground level at the base of the sign.
 - [3] Signs may be on the vertical faces of marquees (canopy or covering structure projecting from and attached to a building) and may project below the lower edge of the marquee not more than 12 inches. The bottom of the marquee signs shall be not less than eight feet above the sidewalk or grade at any point. No part of the sign shall project above the vertical marquee face.
 - [4] Signs shall be attached to the business structure and not project above the roofline.
 - (f) Illumination. Illumination of signs is permitted in accordance with the restrictions of § 300-30.
 - (g) Off-premises signs. Off-premises signs may be permitted in business districts subject to the conditions for other permitted signs in the business districts:
 - [1] Off-premises signs may be either nonilluminated or illuminated but nonflashing, provided the direct source of light is shielded in such a

manner so as to prevent beams or rays of light from being directed into adjoining residential structures or at any part of the roads, streets, or highways, and are of such intensity or brilliance to cause glare or impair the vision of the driver of any motor vehicle or which otherwise interfere with any driver's operation of a motor vehicle.

[2] On all other streets and highways within the jurisdiction of this chapter, no off-premises sign may be established within 2,000 feet of any other off-premises sign on the same side of the street.

(3) Industrial districts.

(a) General. This section of this chapter shall apply to all areas designated by this chapter as "M-1" Industrial Districts.

(b) Size. There is permitted in this zone, for each individual establishment, one sign for each street frontage, each with a maximum area of one square foot for each lineal foot of building street frontage or 1/2 square foot for each lineal foot of property street frontage, whichever is greater, but the maximum total of all permitted signs for any establishment shall not exceed 64 square feet per face, limited to two faces back-to-back.

(c) Electronic message boards. Electronic message boards, digital signs and other such similar devices are permitted in industrial districts no greater than 24 square feet. The total sign size, inclusive of any electronic message board, is subject to the size and height limitations for each district. Only one electronic message board is permitted per parcel, regardless of its location on the parcel.

(d) Type. Wall, monument, pole-mounted, marquee or canopy sign.

(e) Location. Requirements shall be the same as for business districts.

(f) Illumination. Illumination of signs may be permitted in accordance with § 300-30.

(g) Off-premises signs. Off-premises signs may be permitted in commercial and industrial districts subject to the conditions hereinafter cited in this chapter:

[1] Off-site signs may be either nonilluminated or illuminated but nonflashing, provided the direct source of light is shielded in such a manner so as to prevent beams or rays of light from being directed into adjoining residential structures or at any portion of the roads and streets and are of such intensity or brilliance to cause glare or impair the vision of the driver of any motor vehicle or which otherwise interfere with any operation of a motor vehicle.

[2] On all other streets and highways within the jurisdiction of this chapter, no off-premises sign may be established within 2,000 feet of any other off-premises sign on the same side of the street.

§ 300-27. Temporary signs.

The following signs shall be permitted anywhere within the Township. They shall conform with all yard requirements. All monument signs shall not exceed a height of four feet above ground level, and all pole-mounted signs shall not exceed a height of six feet above ground level. Permitted signs shall conform to the following cited requirements and shall not be illuminated.

- A. Construction signs which identify the architects, engineers, contractors and other individuals or firms involved with the construction, but not including any advertisement of any product, and signs announcing the character of the building enterprise or the purpose for which the building is intended, during the construction period, shall be limited to a maximum area of 20 square feet for each firm. The signs shall be confined to the site of the construction and shall be removed within 14 days of the completion of the project. There is a limit of one such sign per construction project. Such signs shall be removed when the project is substantially complete and/or a certificate of occupancy is issued.
- B. Real estate signs advertising the sale, rental or lease of the premises or part of the premises on which the signs are displayed, up to a total area of 12 square feet. Such signs shall be removed within 14 days of the sale, rental or lease. There is a limit of one such sign per parcel, excepting that if the parcel is located on a corner, one additional sign may be permitted as long as they are spaced a minimum of 400 feet apart.
- C. Political campaign signs announcing the candidates seeking public political office and other dates pertinent thereto, up to an area of 32 square feet for each premises. These signs shall not exceed six feet in height and shall be limited to one sign per lot. These signs shall be confined within private property and removed within 14 days after the election.
- D. Street banners advertising a public entertainment or event, if specially approved by the local legislative board and only for locations designated by the legislative body during and for 14 days before and seven days after the event, if advertising an event, or no more than 21 days in total.
- E. Window signs in a window display of merchandise when incorporated with such a display.
- F. Portable signs intended to convey a message for a short period of time, not to exceed 45 days per calendar year from date of erection. These signs shall not exceed 32 square feet in area nor shall they be greater than six feet in height. There is a limit of one such sign per lot per parcel. A temporary sign permit is required for each such sign.
- G. Home occupation or agriculture sales. A resident shall have no more than one sign at any given time, and all signs shall be permitted for not more that a total of 90 cumulative days in a given calendar year. There is an application fee, established by resolution of the Township Board from time to time, required by the Township for such signs. These signs shall not exceed four square feet in area. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

§ 300-28. Exemptions.

The following types of signs are exempted from all the provisions of this chapter, except for the following requirements:

- A. Public signs. Signs of a noncommercial nature and in the public interest, erected by, or on the order of, a public officer in the performance of his public duty, such as safety signs, danger signs, trespassing signs, traffic signs, memorial plaques, signs of historical interest and the like.
- B. Integral. Name of buildings, families, date of erection, monumental citations, commemorative tables and the like when carved into stone, concrete or similar material or made of bronze, aluminum, part of the roof materials or other permanent type construction and made an integral part of the structure.
- C. Private traffic direction. Signs directing traffic movement onto a premises or within a premises, not exceeding three square feet in area for each sign or three feet in height. Illumination of these signs shall be permitted in accordance with § 300-30.
- D. Temporary land development project signs pertaining to the sale, lease, rent or development of a subdivision, planned shopping center, industrial park or similar land parcel are allowed for a period of one year upon issuance of a permit by the Building Inspector and/or Zoning Administrator, and further, said permit may be extended for one additional year by the Building Inspector and/or Zoning Administrator after a duly advertised public hearing.

(1) Total number of signs allowed, together with maximum size, shall be controlled according to the following schedule:

Land Size	Total Number Signs	Maximum Area Per Sign (square feet)
Over 1 acre but less than 4 acres	1	100
Over 4 acres but less than 20 acres	2	100
Over 20 acres	3	100

(2) Signs are not allowed on parcels of less than one acre and shall not exceed a maximum height of six feet.

- E. Permanent joint sign(s) for an industrial or commercial complex pertaining to the identification of the complex or its occupants are permitted. Up to 24 square feet of such sign shall be permitted to be an electronic message board sign, subject to all other requirements of this district.

(1) Commercial centers. Maximum size and number of signs shall be controlled according to the following:

- (a) Neighborhood centers: 100 square feet per face for complexes

comprising less than five acres. Maximum of one sign permitted.

- (b) Community centers: 100 square feet per face for complexes of over five acres except as provided following. Maximum of two signs permitted.
 - (c) Regional centers: 100 square feet per face for complexes of 50 acres or more. Maximum of three signs permitted.
- (2) Industrial complexes. Maximum size and number of signs shall be controlled according to the following:
- (a) One hundred square feet per face for industrial plants or complexes, maximum of two signs permitted.
- (3) Locational requirements shall be the same as for B Business Districts, § 300-26B(2)(c), except as specified in the following:
- (a) The maximum height for a sign is 35 feet where signs are authorized pursuant to § 300-28E.
- (4) Wall signs for an individual business are further allowed pursuant to the requirements of B Business Districts.

§ 300-29. Nonconforming signs.

- A. Refer to Article III.
- B. Nonconforming uses. Any building or land use not conforming to this chapter provisions for the zone in which it is located shall, nevertheless, comply with all the provisions of this article for the conforming zone.

§ 300-30. Illumination.

- A. The light from any illuminated sign shall be so shaded, shielded or directed that the light intensity or brightness will not spill onto surrounding areas.
- B. No sign shall have blinking, flashing or fluttering lights or other illuminating devices such as changing light intensity, brightness or color. Beacon lights are not permitted. All illumination shall be backlit.
- C. Electronic message boards shall be exempt from this requirement by their nature; however, any sign if deemed to be a traffic hazard shall be altered or removed so as to improve the safety of vehicles traveling the roadway.
- D. No colored lights shall be used at any location or in any manner so as to be confused with or construed as traffic control devices.
- E. Neither the direct nor reflected light from primary light sources shall create a traffic hazard to operators of motor vehicles on public thoroughfares.
- F. No exposed, reflective-type bulbs and no strobe light or incandescent lamp which exceeds 15 watts shall be used on the exterior surface of any sign so as to expose the face of the bulb, light or lamp to any public street or adjacent property.

§ 300-31. Structural requirements.

All signs shall comply with the pertinent requirements of the Building Code and all other applicable ordinances.

§ 300-32. Inspection; removal; safety.

- A. Inspection. Signs for which a permit is required may be inspected periodically by the Building Inspector and/or Zoning Administrator for compliance with this and other codes of the municipality.
- B. Tagging. All signs requiring permits shall display, in a place conspicuous to inspectors, the name of the owner or erector as the inspector may designate.
- C. Maintenance. All signs and components thereof shall be kept in good repair and in safe, neat, clean and attractive condition.
- D. Removal of sign. The Building Inspector and/or Zoning Administrator may order the removal of any sign erected or maintained in violation of this chapter. He shall give 30 days' notice, in writing, to the owner of such sign, or of the building, structure or premises on which such sign is located, to remove a sign immediately and without notice if, in his opinion, the condition of the sign is such as to present an immediate threat to the safety of the public.
- E. Abandoned signs.
 - (1) A sign shall be removed by the owner or lessee of the premises upon which the sign is located when the business which it advertises is no longer conducted on the premises. If the owner or lessee fails to remove it, the Building Inspector and/or Zoning Administrator shall give the owner 15 days' notice to remove it. Upon failure to comply with this notice, the Building Inspector and/or Zoning Administrator or his duly authorized representative may remove the sign at cost to the owner.
 - (2) When a successor to a defunct business agrees to maintain the signs as provided in this chapter, this removal requirement shall not apply.

ARTICLE VI
Districts

§ 300-33. Division of Township.

For the purpose of this chapter, the Charter Township of Midland, excepting streets and alleys, is divided into the following zone districts. The districts are listed from most restrictive to least restrictive.

R-1	One-Family Residential
R-2	Multiple-Family Residential
B-1	Neighborhood Business
B-2	General Business
M-1	Industrial

§ 300-34. Official Zoning Map.

- A. The boundaries of these districts are hereby defined and established as shown on a map entitled "Zoning District Map," which accompanies this chapter and which map, with all explanatory matter thereon, is hereby made a part of this chapter.⁹ The Official Zoning Map shall be kept and maintained by the Township Administration.
- B. No changes of any nature shall be made in the Official Zoning Map or matter shown except in conformity with the procedures set forth in this chapter.

§ 300-35. Interpretation of boundaries.

- A. Boundaries indicated as approximately following the streets or highways or the center line of said roadways shall be construed to be such boundaries;
- B. Boundaries indicated as approximately following Township boundary lines or following lot lines shall be construed as following said lines.
- C. Boundaries indicated as approximately parallel to the center lines of streets or highways shall be construed as being parallel thereto and at such distance therefrom as indicated by given distance or scaled dimension.
- D. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the center lines of streams, rivers, ponds, or other bodies of water shall be construed to follow such center line.
- E. Boundaries indicated as parallel to, or extensions of, features indicated in § 300-35A through D above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.
- F. Where physical or cultural features existing on the map are at variance with those shown on the Official Zoning Map, or in other circumstances are not covered by

9. Editor's Note: The Zoning District Map is on file in the Township offices.

§ 300-35A through E above, the Zoning Board of Appeals shall interpret the district boundaries.

§ 300-36. Scope.

- A. No building or structure, or part hereof, shall hereafter be erected, moved, constructed or altered; and no new use or change in use, shall be made unless in conformity with the provisions of this chapter and with the regulations specified for the district in which it is located.
- B. The regulations applying to such districts include specific limitations on the use of land and structure, height and bulk of structures, density of population, lot area, yard dimensions and area of lot that can be covered by each structure.
- C. The Zoning Board of Appeals shall have the power to classify a use which is not specifically mentioned, along with a comparable permitted or prohibited use for the purpose of clarifying the use regulations in any district.

§ 300-37. District boundary exceptions.

- A. Where a district boundary line, as established by this chapter, when adopted or subsequently amended, divides a lot in single and separate ownership, a use permitted in the less restricted portion of said lot may be extended to the entire lot, subject to the following conditions:
 - (1) That 1/2 or more of the area of said lot shall be in the less restrictive district.
 - (2) That any part of a less restricted use extended beyond a district boundary under the terms of this section shall be housed entirely within an enclosed building, and such building shall conform to any applicable yard and area requirements in the more restrictive district.
- B. Restrictiveness by district proceeding from most restrictive to least restrictive is herein established as follows: R-1, R-2, B-1, B-2 and M-1.

§ 300-38. Approval of plats.

No proposed plat of a new or redesigned subdivision shall hereinafter be approved by either the local governing body or its agents unless the lots within the plat equal or exceed the minimum size and width requirements of this chapter and all other applicable regulations.

ARTICLE VII
R-1 Residential — One-Family Low Density

§ 300-39. Intent and purpose.

This district is intended to provide a setting for single-family residential uses, together with such related uses as schools, churches and recreational uses. The regulations are designed to encourage a residential environment of compatible low density dwellings located on individual lots.

§ 300-40. Uses permitted by right.

The following are the principal permitted uses by right within an R-1 District.

- A. Single-family dwelling structures not to exceed one single-family dwelling per lot subject to Article III.
- B. Public parks, public playgrounds, public recreational grounds, and grounds for games and sports, except those the chief activity of which is carried on, or is customarily carried on, as a business.
- C. Religious uses, providing the site shall have a minimum lot size of four acres.
- D. Clustered residential development, with a minimum of 10 acres, subject to § 300-43.
- E. Housing for religious personnel, when attached to the religious use.
- F. Customary accessory uses to any of the permitted uses in the R-1 District, and as defined in Article II, § 300-6, and Article III, § 300-11.
- G. Customary home occupations as defined in Article II, § 300-6.
- H. General farming.

§ 300-41. Uses permitted by special land use permit.

The following uses of land and structure may be permitted in the R-1 Districts by application for an issuance of a special land use permit when all the procedural requirements specified in Article XII, together with all applicable standards as cited in Article XII, are met.

- A. Institutional uses for human care, education and social institutions, as well as public buildings and service installations, excluding facilities for the treatment of drug and alcohol, and incarceration facilities.
- B. Day nurseries. (See Article XII, § 300-70.)
- C. Golf courses and country clubs and associated accessory uses.
- D. Public utility transformer stations and substations, as well as gas regulator stations.
- E. Cemeteries, public and private.

- F. Residential planned unit development.
- G. Sand, gravel or clay pits and quarries subject to the standards cited in Chapter 240, Soil Removal, of the Code of the Charter Township of Midland.

§ 300-42. Dimensional requirements.

- A. Minimum lot size.
 - (1) Each lot shall contain a minimum of 20,000 square feet per dwelling unit, and in the case of a corner lot, it shall be 22,000 square feet.
 - (2) Each lot shall be a minimum of 100 feet in width.
- B. Minimum yard requirements.
 - (1) Each lot shall have a minimum front yard depth of 45 feet from the road right-of-way.
 - (2) Each side yard shall be at least 15 feet deep.
 - (3) Each lot shall have a minimum rear yard of 25 feet.
 - (4) In the case of a corner lot, the side yard on the street side shall not be less than 45 feet, but shall not reduce the buildable width of any lot to less than 50 feet.
- C. Minimum floor area per dwelling unit. Each dwelling unit shall have a minimum finished living area of 1,200 square feet.
- D. Maximum building height.
 - (1) Two and one-half stories or 35 feet.
 - (2) Exceptions (refer to Article III, § 300-10).
- E. Maximum lot coverage. A maximum of 25% of the lot may be covered by all buildings.

§ 300-43. Requirements for cluster development.

- A. A developer who wishes to pursue a cluster development shall submit two concept plans for review by the Zoning Administrator and the Planning Commission. These concept plans shall be prepared in accordance with the site plan requirements in Article XIII and the following additional requirements:
 - (1) Density concept. One concept plan shall portray the development of the dwelling units on the site according to the requirements for the zoning district in which the site is located, with respect to lot area, width, setbacks, and all other dimensional requirements. The proposed density must be realistic in terms of the project area that would actually be buildable. Wetlands, floodplains, areas that are reserved for roads or utility easements, and other areas that are unbuildable shall be excluded from the project density calculations.

- (2) Open space concept. The other concept plan shall portray the development of the dwelling units in a manner so that at least 50% of the land area of the site will perpetually remain in an undeveloped state. The open space concept plan shall contain the same number of dwelling units as the density concept plan.
 - (3) Project narrative. The applicant shall provide a written narrative that explains the project and its benefits. The narrative should specifically address all elements of the project that would not comply with the zoning district regulations that would apply to the density concept plan.
 - (4) Long-term maintenance plan and maintenance schedule. The applicant shall provide a written narrative that details the proposed maintenance plan for the portion of the property to remain undeveloped. The plan should detail the specific maintenance that will occur, how often and how it will be perpetually funded.
- B. Approval standards. The following requirements, in addition to the general standards contained within this chapter, must be met:
- (1) Water supply and wastewater disposal. The proposed development will comply with all requirements of the Midland County Department of Public Health for residential water supply and wastewater disposal.
 - (2) Land Division Act. The proposed development will comply with all requirements of the Land Division Act.¹⁰
 - (3) Creation of open space. At least 50% of the project land area will remain perpetually in an undeveloped state, as previously defined in this section, by means of conservation easement, plat dedication, restrictive covenant, or other legal means that runs with the land and that is acceptable to the Township. The conservation easement, plat dedication, restrictive covenant or other legal means must include the maintenance agreement as proposed by the developer and approved by the Township. Failure to maintain the property as agreed is equal to a failure to abide by this chapter and the approval of the Planning Commission. Furthermore, the conveyance should provide for the assessment of the private property owners by the Township for the cost of maintenance of the open space in the event that it is inadequately maintained and becomes a public nuisance.
 - (4) Maintenance of open space. The open space as identified and approved in the open space development must be maintained as agreed and identified in the narrative submitted under § 300-43A(3). As part of the special land use approval, the owner or owners of the open space development agree to provide access to the Township Zoning Administrator to inspect the maintenance of the open space. Approval of this open space development special land use provides the Township the right, after inspection and request of the developer, to provide maintenance of the open space area as specified within the approval at a cost of the maintenance to the Township, plus 25%. These costs will be distributed among the property owners within the development by special assessment.

10. Editor's Note: See MCLA § 560.101 et seq.

ARTICLE VIII
R-2 Residential — Multiple-Family

§ 300-44. Intent and purpose.

This district is intended to provide for a medium-density residential environment of a high quality. The district is further intended to provide for flexible and creative varieties of single-family development and for two-, three- and multifamily residential structures.

§ 300-45. Uses permitted by right.

The following are the principal permitted uses by right with an R-2 District.

- A. All uses permitted by right in R-1 Districts, subject to all regulations hereinafter cited.
- B. Two-family dwelling.

§ 300-46. Uses permitted by special land use permit.

The following uses of land and buildings may be permitted in the R-2 Districts by the application for issuance of a special land use permit when all the provisional requirements specified in Article XII, together with all applicable standards cited in Article XII, are met.

- A. Institutional Uses including institutions for human care, social institutions and public buildings and service installations.
- B. Day nurseries. (See Article XII, § 300-70.)
- C. Public utility transformer stations and substations as well as gas regulator stations.
- D. Multiple-family dwellings.
- E. Planned unit development.

§ 300-47. Dimensional requirements.

- A. Minimum lot size.
 - (1) For single-family dwellings, each lot shall contain a minimum of 20,000 square feet with a minimum frontage of 100 feet at the front building line on an improved road, but this shall not reduce the buildable width of any lot of record to less than 50 feet. A corner lot shall be a minimum of 110 feet.
 - (2) For two-family dwellings, each two-unit structure shall have a minimum lot area of 30,000 square feet with a minimum frontage of 150 feet at the front building line on an improved road.
 - (3) For multiple-family dwellings. Townhouses, apartment buildings, condominiums and other multifamily units not to exceed a density factor of eight units per acre, provided there is a minimum site of one acre. Minimum lot width of 150 feet is required on an improved road and must have public

water and sewer available.

- B. Minimum yard requirements.
- (1) Each lot shall have a minimum front yard of 45 feet.
 - (2) Each lot shall have a total side yard of 30 feet with a minimum of 15 feet on one side, provided there shall be a minimum of 30 feet between contiguous dwelling structures.
 - (3) In the case of a corner lot, the side yard on the street side shall not be less than 45 feet and the remaining side yard shall not be less than 15 feet.
 - (4) Each lot shall have a minimum rear yard of 25 feet for single- and two-family sites and 40 feet for multifamily lots.
- C. Minimum floor area per dwelling unit.
- (1) Each dwelling unit type shall have a minimum living area as listed below:
 - (a) Single-family: 1,200 square feet.
 - (b) Two-family: 900 square feet.
 - (c) Multifamily: 700 square feet.
- D. Maximum building height.
- (1) Two and one-half stories or 35 feet.
 - (2) Exceptions (refer to Article III, § 300-10).
- E. Maximum lot coverage. A maximum of 40% of the lot may be covered by all buildings.

ARTICLE IX
B-1 Neighborhood Business

§ 300-48. Intent and purpose.

The purpose of this district is to accommodate office uses, office sales uses, business services and certain personal services. The district is intended as a transition area between residential areas and more intensive business development and is intended principally for daytime business functions.

§ 300-49. Uses permitted by right.

The following are the principal permitted uses by right within a B-1 District:

- A. Office uses, including professional and management offices.
- B. Financial uses, including banks, credit unions, and similar institutions.
- C. Personal service establishments which perform personal services on premises, including barbershops and beauty shops, interior decorating shops, photographic studios or similar functions.
- D. Retail uses less than 5,000 square feet.
- E. Commercial schools, including art, business, music and dance.
- F. Funeral homes.
- G. Multiple-family dwellings, provided all conditions and requirements of the R-2 Residential District are followed.
- H. Religious institutions.

§ 300-50. Uses permitted by special land use permit.

The following uses of land and buildings may be permitted in the B-1 Districts by the application for provisional requirements specified in Article XII, together with all applicable standards cited in Article XII.

- A. Publicly owned office and meeting buildings, exchanges and public utility offices, but not including storage yards, substations or regular stations.
- B. Restaurants and dining establishments, providing the following standards are met:
 - (1) The proposed use is designed, constructed, operated and maintained in harmony with adjacent land uses or zoning districts as required in Article XII.
 - (2) Dancing or nightclub entertainment is prohibited.

§ 300-51. Dimensional requirements; performance standards.

- A. Minimum lot size.
 - (1) Each lot shall contain a minimum of 20,000 square feet.

- (2) Each lot shall be a minimum of 100 feet in width at the front building line on an approved road.
- B. Minimum yard requirements.
- (1) Each lot shall have a minimum front yard of 35 feet.
 - (2) Each lot shall have a total side yard of 35 feet with a minimum of 15 feet on one side.
 - (3) Each lot shall have a minimum rear yard of 25 feet.
 - (4) In the case of a corner lot, the side yard of the street side shall not be less than 35 feet and the remaining side yard shall not be less than 15 feet.
- C. Maximum building height.
- (1) Two and one-half stories or 35 feet.
 - (2) Exceptions (refer to Article III, § 300-10).
- D. Maximum lot coverage. A maximum of 35% of the lot may be covered by all buildings.
- E. Performance standards. Because this district is designed to provide services to residential areas, it is reasonable to expect that the developments will occur in proximity to residential development. In order to ensure that these developments are not in conflict with such development, the following performance standards are defined when a commercial district is adjacent or abuts any land zoned for residential use.
- (1) Lighting levels. Photometric plans are required for submittal to Planning Commission which show that light levels will be at zero by the property line.
 - (2) Hours. Due to the proximity to residential areas, such business may not open prior to 6:00 a.m. or stay open past 11:00 p.m., Sunday through Thursday, or 12:00 p.m. on Friday or Saturday.
 - (3) Noise levels. Uses which require outdoor operation of refrigeration equipment or running of diesel engines, or other such similar uses, are prohibited.
 - (4) Additional screening. When, in the opinion of the Planning Commission, vehicle headlights would be visible from areas zoned for residential use, an appropriate screen, whether it is opaque fencing, a wall or opaque landscaping, shall be installed.

ARTICLE X
B-2 General Business

§ 300-52. Intent and purpose.

The purpose of B-2 Districts is to accommodate developments that serve a broad economic market area. The intent is to provide for retail businesses, personal and business service establishments and small warehouses developed along major arterial roads in a fashion that minimizes traffic congestion, traffic conflicts and hazards and promotes site development. Drive-through uses are permitted, provided that they meet all other ordinance standards.

§ 300-53. Uses permitted by right.

The following are the principal permitted uses by right within a B-2 District:

- A. All uses allowed in B-1.
- B. Retail uses.
- C. Restaurants and taverns.
- D. Nightclubs, meeting facilities, banquet halls and private clubs.
- E. Office uses.
- F. Automobile service and repair stations, car washes.
- G. Temporary outdoor uses, such as displays, Christmas tree sales lots, revival tents, or other quasi-civic activities may be permitted on a temporary basis without a public hearing by the Township Zoning Board of Appeals, provided that such permit (issued by the Township Board of Trustees) shall not be issued for more than 30 days in any one year and that said use can be adequately shown not to be injurious or detrimental to properties in the immediate vicinity.
- H. Commercial recreation facilities, such as indoor theaters, bowling alleys, indoor skating rinks or similar uses, provided that all such uses will be conducted wholly within a fully enclosed building and that such building shall have yard setbacks of at least 100 feet from any abutting residential district boundaries.
- I. Restaurant, clubs and other drinking establishments which provide food or drink for consumption and may also provide dancing and entertainment.
- J. Motel and hotel, provided the following conditions are met:
 - (1) Minimum floor area of 250 square feet per guest unit shall be provided.
 - (2) Minimum lot area of 40,000 square feet is required, together with a minimum lot width of 150 feet, plus there shall be no less than 400 square feet of lot area for each guest unit.
 - (3) Maximum lot coverage, including all buildings, both principal and accessory, shall be 40%.

- (4) Minimum yard dimensions require all buildings to be set back no less than 40 feet from any street property line and no less than 30 feet from any side or rear property line, except that the side yard, for a corner lot, which is adjacent to the street shall be no less than 40 feet.
- K. Greenhouses, nurseries and open-air business uses, such as sales of trees, shrubs and plants, sale of lawn furniture, playground equipment and garden supplies.
- L. Veterinary hospitals and clinics.
- M. Servicing and repair of recreational vehicles, trailers and boats when contained within a wholly enclosed building.
- N. Lumber, hardware, plumbing, heating electrical, etc.

§ 300-54. Uses permitted by special land use permit.

The following uses of land and structures may be permitted by the application for issuance of a special land use permit, provided that the standards and procedural requirements as outlined in Article XII are met:

- A. Warehouse and distribution facilities, contractor establishments and storage facilities subject to standards in Article XII, Special Uses; Special Land Use Permit Requirements.
- B. New and used vehicle sales lots and leasing services.
- C. Commercial recreation facilities subject to the standards in Article XII.
- D. Commercial windmills and wind-powered electricity generating devices subject to the standards in Article XII.
- E. Communication towers subject to the standards in Article XII.

§ 300-55. Dimensional requirements.

- A. Minimum lot size.
 - (1) Each lot shall have a minimum front yard of 40 feet not more than 30 feet of which may be used for parking and driveway.
 - (2) Each lot shall be a minimum of 100 feet in width at the front building line on an approved road.
- B. Minimum yard requirements.
 - (1) Each lot shall have a minimum front yard of 40 feet, and said yard, except for necessary drives or walks, shall remain clear except that 10 feet may be used for parking.
 - (2) Side yard shall be 10 feet except on that side or sides of the lot abutting upon a residential, in which case there shall be a side yard of not less than 30 feet. Side yards are not required if a proposed structure will connect with an adjacent commercial structure to form one commercial structure with

combined access and parking and if there is a combined parking lot with not more than two ingress/egress locations.

- (3) Each lot shall have a rear yard of 30 feet, and further, in the case of a corner lot, the side yard on the street shall be a minimum of 40 feet.
- C. Maximum building height. The maximum building height shall be three stories or 40 feet.
- D. A maximum of 80% of the lot may be covered by all buildings.

ARTICLE XI
M-1 Industrial

§ 300-56. Intent and purpose.

- A. This district is intended for light industrial uses with few, if any, nuisance characteristics, but also permits commercial establishments both wholesale and retail sales, and service establishments. The M-1 District is designed to permit manufacturing, processing, assembling, packaging or treatment of products from previously prepared materials. It is also intended to prohibit residential uses as being incompatible with the primary industrial and related uses permitted.
- B. It is the purpose of these regulations to promote sound industrial areas within the community which are also protected from incompatible uses.

§ 300-57. Uses permitted by right.

The following are the principal permitted uses by right within an M-1 District:

- A. Everything allowed in B-1 and B-2.
- B. Production, processing, assembling, packaging or treatment of products as bakery goods, candy, food products, hardware and cutlery, tool and die, garage products, and sheet metal products.
- C. Manufacturing and/or assembly.
- D. Laboratories and research and development facilities.
- E. Trade, skills or industrial schools.
- F. Public utility installations and buildings, including power, fuel, communications and water treatment.
- G. Truck terminals.
- H. Contractor's establishments.
- I. Warehouse and distribution facilities.
- J. Storage buildings and yards.
- K. Rail or freight terminals.
- L. Drilling, operating and maintenance of wells for production of oil, natural gas or brine, providing:
 - (1) Minimum lot size required shall be 2 1/2 acres.
 - (2) The well shall not be closer to any adjacent lot line than 150 feet.
 - (3) Fencing of the well structures shall be required if and when substantial residential development exists in the vicinity of the well site.
 - (4) Landscaping of the site, noise abatement, odor controls and similar

performance characteristics should be harmonious in appearance and qualities as surrounding uses of the environment.

- (5) All development, operations and maintenance of wells shall otherwise be in conformance with all state and federal environmental regulations.
- M. Commercial windmills and wind-powered electricity generating devices, providing:
- (1) Minimum lot size required shall be two acres.
 - (2) The total maximum height permitted for such structures, including blades, shall not exceed 60 feet or 15 feet above the surrounding native mature trees, or whichever is less.
 - (3) The structure shall not be closer to any adjacent lot line than the height of the structure and in no case less than 100 feet from an adjacent lot line.
 - (4) The structure shall be designed and operated in a fashion that noise levels are minimized and not objectionable to surrounding property owners.
- N. Accessory uses clearly subordinate to the main use of the lot or building.

§ 300-58. Uses permitted by special land use permit.

The following uses of land and buildings may be permitted in the M-1 District by the application for issuance of a special land use permit when all the standards and procedural requirements specified in Article XII are met:

- A. Incinerators and sanitary landfills.
- B. Junkyards. (See Chapter 164, Junkyards, of the Code of the Charter Township of Midland.
- C. Sewage treatment and disposal installations.
- D. Communication towers subject to the standards in Article XII.

§ 300-59. General use requirements.

- A. Outdoor storage is permitted except that, within 200 feet of any other district or when visible from a public road, said storage shall be in completely enclosed buildings. All outdoor storage shall be effectively screened by a solid, uniformly finished wall or fence with solid entrance and exit gates. The fence or wall shall be at least four feet in height, but in no case shall the fence be lower than the enclosed storage. The maximum fence height shall be eight feet. Such storage shall be deemed to include the parking of licensed motor vehicles over 1 1/2 tons rated capacity.
- B. Uses in this district shall conform to the following standards:
 - (1) Shall conform to all local, state and applicable federal pollution control standards, to include but not limited to noise, air and water quality requirements.

- (2) Emit no smoke, odorous gases or other odorous matter in such quantities as to be offensive at or beyond any boundary of the use of the parcel.

§ 300-60. Dimensional requirements.

A. Minimum lot size.

- (1) Each lot shall contain a minimum of 25,000 square feet of area.
- (2) Each lot shall have a minimal frontage of 125 feet at the front lot line on an approved road.

B. Minimum yard requirements.

- (1) All structures are required to have a minimum front yard or setback of not less than 40 feet from the front property line. Where a lot in this abuts a lot in any residential district, no building in the M-1 District shall be closer than 100 feet to the property line of such residential lot.
- (2) Except for landscape improvements, parking lots, necessary drives and walks for parking and loading, the front yard shall remain clear and shall not be used for storage or accessory structures.
- (3) When the side or rear yard areas abut land within a residential district and when such yard areas are to be used for parking, loading, unloading or servicing, then such side and rear areas shall be effectively screened by a solid, uniformly finished wall or fence. Such wall or fence shall be at least four feet in height, but in no case shall the fence or wall be lower than the enclosed parking, loading or servicing activity to be screened. Also must meet requirements as specified in § 300-8D.
- (4) In the case of a corner lot, a clear vision area of 30 feet shall be maintained.

C. Maximum building height.

- (1) Buildings shall not exceed 3 1/2 stories in height or 45 feet.
- (2) Exceptions (refer to Article III, § 300-10).

D. Maximum lot coverage. A maximum of 80% of the lot may be covered by all buildings.

E. Minimum off-street parking. Requirements for an allowed use shall be determined from the "Schedule of Parking Requirements" in Article IV, § 300-18.

F. Minimum off-street loading area for M-1 District uses.

- (1) The required number of standard berths for M-1 Industrial District uses shall provide at least one standard loading space regardless of floor area and other unloading spaces as required to adequately facilitate business and to prevent on street loading and/or unloading.
- (2) Supplementary regulations are contained in Article III.

ARTICLE XII
Special Uses; Special Land Use Permit Requirements

§ 300-61. Intent and purpose.

- A. It is the intent of this article to provide a set of procedures and standards for special uses of land or structure which, because of their unique characteristics, require special consideration in relation to the welfare of the adjacent properties and the community as a whole.
- B. It is the expressed purpose of the regulations and standards herein to allow, on one hand, practical latitude for the landowner and/or developer to make fullest use of his or her property, but at the same time maintain adequate provision for the protection of the health, safety, convenience and general welfare of the community.
- C. For the purpose of this chapter, the following special land use categories are identified which, together with cited special land uses within the various districts, are operational under the conditions and standards of this chapter.
 - (1) Institutional uses.
 - (2) Commercial recreation.
 - (3) Manufactured housing parks/developments.
 - (4) Planned unit residential developments.
 - (5) Planned neighborhood shopping center.
 - (6) Day-care facilities.
 - (7) Funeral homes.
 - (8) Automobile service stations.
 - (9) Wireless communication facilities.
 - (10) Miscellaneous special land uses.
- D. The following, together with previous references in other chapters of this chapter, designate the requirements, procedures and standards which must be met before a special land use permit can be issued.

§ 300-62. Permit procedures.

The application for a special land use permit, also referred to hereafter as "special use permit," shall be submitted and processed under the following procedures:

- A. Submission of application.
 - (1) An application shall be submitted through the Building Inspector and/or Zoning Administrator on a special form for that purpose. Each application shall be accompanied with the payment of a fee as established by the Township Board of Trustees.

- (2) In the event the allowance of a desired use requires both a rezoning and special land use permit, both requests may be submitted jointly, subject to the following:
 - (a) The ordinance procedures for each shall be followed as specified.
 - (b) All applicable standards and specifications required by this chapter shall be observed.
- B. Data required.
- (1) The special form shall be completed in full by the applicant, including a statement by the applicant that § 300-63 can be complied with.
 - (2) The name, address and telephone number of the applicant.
 - (3) The legal description of the subject parcel of land.
 - (4) A site plan meeting the requirements of § 300-78.
 - (5) Any additional items or submissions as determined by the special land use requirements of the specific, proposed use.
- C. Charter Township of Midland Planning Commission. The Planning Commission shall be the body responsible for reviewing and recommending special land uses. The Planning Commission may, however, designate the Building Inspector and/or Zoning Administrator some specific responsibilities for assisting it in this function.
- (1) Notification and publication. Once the Township has received a completed application package and the appropriate fee, the Planning Commission will process it in accordance with the public notice requirements described in § 300-79.
 - (2) Planning Commission review and hearing. The special use permit application package shall be the subject of both a site plan review and a public hearing conducted by the Planning Commission. If the applicant wishes to have the site plan review and special use permit considered at a single Planning Commission meeting, he or she must meet the following requirements:
 - (a) Public hearing on special use. The Planning Commission shall hold a public hearing on the application as part of the meeting at which the special use permit is considered.
 - [1] Notice. A notice of public hearing processed in accordance with the public notice requirements described in § 300-79.
 - (b) Consideration of a special use permit. Following the public hearing, the Planning Commission Chairman shall accept a motion to recommend approval, conditional approval, or denial of the special use permit. Planning Commission members shall then discuss the motion and vote upon it.
 - [1] Open meeting. Note that the Open Meetings Act¹¹ requires this vote to take place in an open public meeting.

- [2] Prompt decision. In the interest of fairness and a timely response for all concerned parties, the Planning Commission shall render its decision on the special use permit during the same meeting in which the public hearing is held, unless further information must be obtained before a decision can be made. In such cases, action upon the special use permit may be tabled to a public meeting of the Planning Commission to be held on a specific date which is identified in the motion to table.
- (c) Site plan review. The Planning Commission shall conduct a site plan review for the proposed use, using the procedure and standards presented in Article XIII and any specific standards identified for a special use by this chapter. The Planning Commission may approve the site plan as presented, approve it with conditions, deny it, or table approval of it to a specific meeting date.
- [1] Public input. The site plan review is intended to be an objective review of factual information to determine whether precise standards have been met. However, the Planning Commission may choose to accept public comments or questions relating only to design considerations of the site plan.
- [2] If the site plan is denied. In the event the site plan is denied, consideration of the special use permit shall still occur. The special use permit may still be approved with the condition that site approval must be obtained before the special use permit is valid.
- (3) Recommendation. The Planning Commission may make a recommendation to the Township Board to deny, to approve or to approve with conditions, the request for special land use approval. If the application for a special land use permit is in compliance with all standards in this chapter and other applicable ordinance and state and federal statutes, it shall be approved. The decision on a special land use shall be incorporated in a written statement of findings and conclusions relative to the special land use which specifies the basis for the decision and any conditions imposed. The Charter Township of Midland Planning Commission must make the recommendation to deny, approve or approve with conditions a request for special land use permit within 60 days of its submission to the Planning Commission except in those cases where the applicant has been requested to furnish additional information, in which case a decision shall be made within 30 days from the receipt of said information.
- (4) Approval. After receiving the recommendation from the Planning Commission, the Charter Township of Midland Board of Trustees shall make its decision.
- (5) Reapplication. An application for a special use permit which has been denied by the Planning Commission may not be resubmitted for one year after the date of such denial.
- (6) Terms of permit. If a use established under a special use permit is discontinued

for a period of one year, the special use permit shall expire. If the use and/or structure for which a special land use permit was approved does not commence construction within one year of its approval, the special use permit shall expire. To reestablish the use after such expiration will require granting of a new special use permit, starting with a new application.

- (7) Revocation. The privilege of a special use permit is subject to all conditions that have been attached to it during the process described above. Except as noted in Subsection C(6), the permit remains valid as long as all of those conditions are met. However, the Township Board shall revoke any special use permit after it has been proved that the permit conditions have been violated. The special use permit is a condition of the approval of the zoning permit, and revocation of it shall void the zoning permit.
 - (a) First notice. The Building Inspector and/or Zoning Administrator shall send written notice of a violation to the holder of the special use permit by certified mail. The notice shall state that correction must be made within 30 days or the Township Board will revoke the special use permit and order the use to cease.
 - (b) Considered nonconforming. From the time the Building Inspector's and/or Zoning Administrator's notice of violation is issued, until compliance with all special use permit conditions is restored, the use in question shall be treated as an illegal nonconforming use.
 - (c) Planning Commission action. The Building Inspector and/or Zoning Administrator shall notify the Planning Commission of the violation of conditions of the special use permit at the next regular Township Board meeting, and revocation of the special use permit shall be considered then. The Township's Board meeting will usually occur before the thirty-day period for the first notice has expired. In that case, the resolution to revoke the special use permit should be worded so that it takes effect only if compliance with all requirements is not restored. It shall also include authorization for the Building Inspector and/or Zoning Administrator to order the permit holder to cease the permitted use if the violation is not corrected by the end of the first notice period.
 - (d) Second notice and order. After expiration of the thirty-day period, the Building Inspector and/or Zoning Administrator shall notify the permit holder by certified mail that the special use permit has been revoked, and the use for which the permit was granted must cease within 60 days from the date of this second notice.
 - (e) Enforcement of order. Failure to comply with the order to cease an activity for which a special use permit has been revoked is a violation of this chapter, subject to all penalties thereof; see § 300-82.

§ 300-63. Permit standards.

Before approving or denying a special use permit application, the Planning Commission reviews the site plan for said use to establish that all applicable standards are satisfied.

The site plan review shall determine compliance with the applicable district regulations, the site plan review standards from Article XIII, and any applicable standards from this chapter. Additionally, the following general standards, as well as specific use standards, shall be satisfied.

- A. General standards. The Planning Commission shall review each application for the purpose of determining that each proposed use meets the following standards and, in addition, shall find adequate evidence that each use on the proposed site will:
- (1) Be designed, constructed, operated and maintained so as to be harmonious, and appropriate in appearance, with the existing or intended character of the general vicinity and that such a use will not change the essential character of the area in which it is proposed.
 - (2) Not be hazardous or disturbing to existing or intended uses in the same general area and will be an improvement to property in the immediate vicinity and to the community as a whole.
 - (3) Be served adequately by essential public facilities and services, such as highways, streets, police, fire protection, drainage structures, refuse disposal, water and sewage facilities or schools.
 - (4) Not create excessive additional requirements at public cost for public facilities and services.
 - (5) Not involve uses, activities, processes, materials and equipment or conditions of operation that will be detrimental to any persons, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors.
 - (6) Be consistent with the intent and purpose of the zoning district in which it is proposed to locate such use.
 - (7) Be compatible with the natural environment, including terrain, biota, floodplains and distinctive features or characteristics.
- B. Conditions. The Charter Township of Midland Planning Commission may recommend that additional conditions be imposed as part of issuing a special land use permit if it is necessary to ensure that public services and facilities affected by the land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to ensure compatibility with adjacent uses of land and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet all of the following requirements:
- (1) Be designed to protect natural resources, the health, safety and welfare and the social and economic well-being of those who will use the special land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity and the community as a whole.
 - (2) Be related to the valid exercise of police power and purposes which are affected by the proposed use or activity.
 - (3) Be necessary to meet the intent and purpose of this chapter, be related to the

standards established in this chapter for the land use or activity under consideration and be necessary to ensure compliance with those standards.

- (4) The conditions imposed with respect to the approval of a land use or activity shall be recorded in the record of the approval action and shall remain unchanged except upon the mutual consent and recommendation of the Board of Trustees and landowner. The Board of Trustees shall maintain a record of conditions which are changed. The breach of any condition shall be cause for the Township Board to revoke a special use permit as described in § 300-62C(7).
- C. Specific requirements. The general standards and requirements of this section are basic to all uses authorized by special land use permit. The specific and detailed requirements set forth in the following section relate to particular uses and are requirements which must be met by those requirements, where applicable.

§ 300-64. Institutional uses.

- A. Uses. The following uses may be authorized in those districts as noted under the respective zoning districts and provided the applicable conditions are complied with:
- (1) Institutions for human care.
 - (2) Religious institutions.
 - (3) Educational and social institutions.
 - (4) Public buildings and public service installations.
 - (5) Cemeteries, public or private.
- B. Development requirements. The following principles shall be utilized to evaluate the proposed location of any institutional use within a permitted district. These principles are alterable depending upon the specific conditions of each situation, but they shall be applied by the Planning Commission as general guidelines to help assess the impact of an institutional use upon the district in which such use is proposed to be located.
- (1) Motor vehicle entrance should be made on a principal arterial or immediately accessible from a principal arterial as defined by National Function Classification System and/or the County Road Commission as to avoid the impact of traffic generated by the institutional use upon a residential area.
 - (2) Site locations should be preferred that offer natural or man-made barriers that would lessen the effect of the intrusion of the institutional use into a residential area.
 - (3) All buildings shall be of an appearance that shall be harmonious and unified as a group of buildings and shall blend appropriately with the surrounding area.
 - (4) Except public utility transformer stations and substations, gas regulator stations and housing for religious personnel attached to a church or school

function:

- (a) No building shall be closer than 40 feet to any property or street line.
- (b) No more than 25% of the gross site area shall be covered by structures.

C. Specific requirements for certain uses.

(1) Hospitals (for overnight stay).

- (a) The proposed site shall be at least five acres in area.
- (b) The proposed site shall have at least one property line abutting a principal or minor arterial.
- (c) No more than 25% of the gross site shall be covered by structures.

(2) Religious institutions.

- (a) The proposed site shall be at least one acre in size plus 1/2 acre per 100 seats in the main auditorium.
- (b) No building shall be closer than 40 feet to any property or street line.
- (c) No more than 25% of the gross site area shall be covered by structures.

(3) Public utility transformer stations and substations, gas regulator stations and utility buildings.

- (a) All buildings shall be harmonious in appearance with the surrounding residential area, if applicable, and shall be similar in design and appearance to any other buildings on the same site.
- (b) Where mechanical equipment is located in the open air, it shall be screened from the surrounding residential area by suitable plant material and it shall be fenced for safety. All buildings housing mechanical equipment shall be landscaped and maintained to harmonize with the surrounding area.

§ 300-65. Golf courses, country clubs and shooting clubs.

A. Uses.

- (1) The following uses may be authorized in those districts and, provided the applicable requirements are complied with:
 - (a) Golf courses.
 - (b) Country clubs.
 - (c) Shooting or hunting clubs.
- (2) Accessory uses for a permitted use shall be construed to include restaurant and other eating or drinking establishments, such uses as a driving range and such retail sales that are directly connected with the conduct of the principal use.

- B. Development requirements. The following standards shall be applicable as basic requirements for the use of land or for the erection, reconstruction or alteration of permitted structures.
- (1) Allowed use should be located to be immediately accessible from a principal or minor arterial or collector street as classified by the National Function Classification System and/or the County Road Commission.
 - (2) Site location should be allowed which enhances the natural environment and amenities for community life.
 - (3) Minimum site shall be 50 acres or more, and access shall be so designed as to provide all ingress and egress directly onto or from a collector.
 - (4) Lighting shall be shielded to reduce glare and shall be so arranged and maintained as to direct the light away from all residential lands which adjoin the site.
 - (5) Off-street parking shall be provided as required in Article IV, which shall include additional spaces which may be required for such accessory uses as a restaurant or bar.
 - (6) Signs shall be in accordance with the schedule outlined in Article V.
 - (7) Minimum yard and height standards require that no building shall be closer than 50 feet to any property or street line. No building shall be erected to a height greater than that permitted in the district in which it is located, except as may be provided under height exceptions for the district in question.

§ 300-66. Manufactured housing development.

A. Authorization.

- (1) Manufactured housing developments are herein recognized as fundamentally a multiple-residential use and that allowing in a residential classification, subject to particular conditions and standards, will best promote the public health, safety, comfort, convenience, prosperity and the general welfare as set out in this comprehensive Zoning Ordinance.
- (2) The special features and demands of manufactured housing require full considerations of their site location, design and improvement; their demands upon public services and utilities; and their relationship to and effect upon adjacent land uses.

B. Uses. A manufactured housing development may include any or all of the following uses, provided that a plan of the proposed development is approved by the Mobile Home Commission of the State of Michigan in accordance with Act 96, Public Acts of 1987, MCLA § 125.2301 et seq., the Mobile Home Commission Act, as amended, and provided further that said development proposal meets the standards and conditions and all other provisions as herein established. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

- (1) Manufactured homes are designed for occupancy as a dwelling unit, and

containing a minimum of 1,200 square feet of living area.

- (2) Accessory buildings and services required for normal operation. Such establishments or service facilities shall be designed and intended to serve frequent trade of needs of persons residing within the park and may be permitted, provided that such uses:
 - (a) Shall not occupy more than 5% of the area of the park.
 - (b) Shall be subordinate to the residential character of the park.
 - (c) Shall present no visible evidence of commercial character to any area outside of the park boundaries.
 - (3) Maintenance building for conducting the operation and maintenance of a mobile home park. Only one permanent building can be established; however, a caretaker's residence may be established within or in addition to said permanent building.
- C. Uses specifically prohibited. The sales, display or storage of manufactured homes for such uses within any portion that is expressly prohibited.
- D. Development requirements. The following minimum requirements, guidelines and standards shall be used in considering the issuance of a special use permit. In addition to the provisions of this chapter, all parks shall comply with Act 96, Public Acts of 1987, MCLA § 125.2301 et seq., the Mobile Home Commission Act, as amended, proof of which shall be established by presentation of a certified copy of construction permit issued by the State of Michigan prior to final approval of special use permit. If any of the requirements of this section are less restrictive than the state Act (Act 96, Public Acts of 1987, MCLA § 125.2301 et seq., the Mobile Home Commission Act, as amended), the state requirements shall prevail. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
- (1) Park site standards.
 - (a) Manufactured homes intended for residential use must be located within a properly authorized manufactured home park.
 - (b) Minimum site size for manufactured home park shall be 40 acres.
 - (c) Minimum number. At least 60 spaces shall be completed and ready for occupancy, along with related park improvements, before first occupancy.
 - (d) Minimum site location standards require each proposed site to have at least one property line not less than 200 feet in length abutting a principal or minor arterial or collector street. The arterial or collector street shall be paved and of sufficient design capacity as required by the Midland County Road Commission to safely and effectively handle any increased traffic generated.
 - (e) Minimum site access standards require a minimum of two site access points and all points of entrance or exit from the park are to be paved to a

minimum width of 24 feet for a two-way or one-way. All street entrance or exit drives shall not be located closer than 350 feet from the intersection of any two arterial streets, and no street parking shall be allowed within 100 feet of intersection with the public street.

- (f) Minimum side yard dimensions require that no building upon the premises shall be located closer than 100 feet from any property line.
 - (g) Maximum height for any building or structure shall not exceed 2 1/2 stories or 35 feet.
 - (h) Minimum open space standards. At least 10% of the entire park must be preserved in open space. Open space does not include roads.
- (2) Manufactured home space standards.
- (a) Minimum space shall be 5,500 square feet, and the lot shall not be less than 50 feet in width. The minimum space of 5,500 square feet may be reduced by 20%, provided that each individual site shall be equal to at least 4,400 square feet and further provided that each square foot of land gained through the reduction of the lot be dedicated as open space.
 - (b) Minimum space yard dimensions for front yards and rear yards shall be 10 feet and for the side yards shall be a minimum of 10 feet from the nearest space line. The "front yard" is the yard which runs from the hitch end of the stand to the nearest space line. The rear yard is the opposite end of the stand, and the side yards are at right angles to the ends. Yard area shall not be encroached upon by enclosed buildings or structures, except that surfaced parking area or surfaced patio area may be provided in yard areas, but in all cases shall not be closer than five feet from a space side yard line.
 - (c) Space improvement standards require that each stand consisting of a solid reinforced concrete slab at least four inches in depth. All off-street parking spaces provided on individual mobile home space or on the mobile home park site shall be clearly defined and hard-surfaced with bituminous or concrete surfacing which shall be durable and well-drained under normal use and weather conditions. An outdoor, concrete-surfaced patio area of not less than 200 square feet shall be provided at each mobile home site, conveniently located to the entrance of the mobile home.
 - (d) Storage facilities shall be provided for each site, and further shall be waterproof and provide a maximum space of 500 cubic feet for each mobile home space.
- (3) Utilities standards
- (a) Sanitary sewer and water facilities to all manufactured homes shall be connected to a sanitary sewer system.
 - (b) Utility lines to each manufactured home park space shall be installed underground and specially designed for that purpose. When separate meters are installed, each meter shall be located in a uniform manner.

When natural gas is unavailable, fuel oil or gas shall be furnished and distributed in a uniform manner in accord with an approved plan by the Planning Commission.

- (4) Parking, streets and walkways. All driveways, streets, parking areas and walkways within the mobile home park shall be provided with surfacing of bituminous or concrete (see construction standards in Article IV) which shall be durable and well-drained, and adequately lighted with lighting units so spaced and of such capacity and height for safety and ease of movement of pedestrians and vehicles at night.
 - (a) Minimum parking standards are specified in Article IV, and required parking shall be off-street parking and shall be so located as to be convenient to residents and visitors.
 - (b) Minimum pavement widths.

[1] Park street standards provide that each mobile home space shall have access to a street which shall meet the following specifications, where appropriate to its character:

Minimum Pavement Widths		
Parking Allowance	Traffic Flow	Minimum Paved Width (feet)
No parking	1-way or 2-way	24
Parking 1 side	1-way or 2-way	30
Parking 2 sides	1-way or 2-way	38

- [2] All on-street parking shall be parallel and so arranged as not to impair the free movement of traffic or the safety of residents or visitors.
 - (c) Curb and gutter shall be provided for on all streets, and all street construction shall be in accordance with specifications as required by the Midland County Road Commission.
 - (d) Walkway standards provide that walks be provided from mobile homes to service buildings and mobile home facilities shall be at least four feet in width and walks used in common by one to three mobile homes shall be at least 30 inches in width.
 - (e) Lighting. The developer shall submit a park lighting scheme previously approved by the utility company supplying power.
- (5) Buffers, landscaping and recreation.
 - (a) Greenbelt buffer of 30 feet in width shall be located within the 50 foot yard area as established herein. This greenbelt shall be established and continually maintained and shall consist of trees and shrubs, or grassed

berm, to protect privacy for the mobile home residents and to shield the mobile homes from surrounding areas. The greenbelt shall contain at least one row, either straight or staggered, of deciduous and/or evergreen trees spaced not more than 40 feet apart, and at least three rows of deciduous and/or evergreen shrubs spaced not more than eight feet apart. In the case of a berm, said berm shall be a minimum of five feet in vertical height.

- (b) Recreation space standards provide that common recreation space of not less than 20% of the gross park area shall be developed and maintained by the park owner. This area shall not be less than 100 feet in its smallest dimensions and its boundary no further than 500 feet from any mobile home space within its service area. Yard requirements as set out in this chapter are not to be defined as "recreational areas" in obtaining the minimum area of 20% as set forth herein.
- (6) Public health and safety.
- (a) Storage, collection and disposal of refuse and garbage shall be so conducted as not to create health hazards, rodent harborage, insect breeding area, fire hazards, or pollution of air or water bodies. All refuse and garbage shall be collected at least once weekly through a suitable public or private agency, if available. The park owner shall provide this service. Garbage containers shall be located in a uniform manner at each space and so designed to be of a permanent character or located out of general view. Dumpsters are expressly prohibited.
 - (b) Suitable fire hydrants shall be installed in all parks as required by the Fire Chief.
 - (c) To aid protection of the public safety, an orderly street name system and numbering system shall be established by the mobile home park owner and a plan of this system shall be verified by the local Post Office department and filed with the community Fire and Police Department. Mobile home space numbers shall be located uniformly on each space throughout the mobile home park, and street names shall be adequately marked.
 - (d) Manufactured housing. Installation of manufactured homes upon each site shall be accomplished in accordance with Part 6 of the Manufactured Housing Commission rules. All manufactured housing shall be connected to utilities and shall be skirted and anchored in accordance with Part 6 of the Manufactured Housing Commission rules.
- (7) Miscellaneous provisions.
- (a) Resident supervision and maintenance. The park shall be operated in compliance with the provisions of this chapter, and the manufactured home park owner(s) shall provide a designated individual, in residence, to adequately supervise and maintain the park, its facilities and its equipment in good repair and in a clean and sanitary condition.
 - (b) Performance bond. Upon granting a special use permit, a bond executed

by any surety company authorized to do business in the State of Michigan, may be required to be delivered to the Township Board by the applicant for the faithful performance of the provisions of this chapter and conditions of the special use permit. Said bond shall be in an amount to be determined by the Township Board and shall be conditioned upon the completion of all acts relative to the construction, alteration or extension of any mobile home park within a period of time to be determined as a condition of the special use permit.

- (c) Inspection of manufactured home parks is authorized, and the Building Inspector and/or Zoning Administrator is directed to make at least yearly inspections of the premises to ensure conformance with these section provisions and all other applicable codes and regulations.

§ 300-67. Planned residential unit development.

It is the purpose of this section to encourage more imaginative and livable housing environments within the residential districts, as noted, through a planned reduction, or averaging, of the individual lot and/or area requirements for each zone district, providing the overall density requirements for each district remains the same. Such averaging or reduction of lot area requirements shall only be permitted when a landowner, or group of owners acting jointly, can plan and develop a tract of land as one complex land use unit, rather than an aggregation of individual buildings located on separate, unrelated lots. Under these conditions, a special use permit may be issued for the construction and occupancy of a planned unit development, providing the standards, procedures and requirements set forth in this section can be complied with.

A. Objectives.

- (1) To provide a more desirable living environment by preserving the natural character of open fields, stands of trees, brooks, ponds, floodplains, hills and similar natural assets.
- (2) To encourage the preservation of open space and the development of recreational facilities in a generally central location and within reasonable distance of all living units.
- (3) To encourage developers to use a more creative and imaginative approach in the development of residential areas.
- (4) To provide for more efficient and aesthetic use of open areas by allowing the developer to reduce development costs through the bypassing of natural obstacles in the residential site.
- (5) To encourage variety in the physical development pattern of the community by providing a variety and mixture of housing types.

B. Qualifying conditions. Any application for a special use permit shall meet the following conditions to qualify for consideration as a planned unit development.

- (1) All planned unit developments shall be under the control of the one owner or group of owners and shall be capable of being planned and developed as one

integral unit.

- (2) Public water facilities shall be available or shall be provided as part of the site development. The developer must demonstrate ability to provide water and sanitary sewer services, including all required county approvals and permits, or show connection to the public water system.
 - (3) For each square foot of land gained by averaging the lot sizes, an equivalent amount of land shall be set aside for common use. This land shall be dedicated for the use of the home or lot owners within the planned unit development under legal procedures. These legal procedures shall also give the public a covenant or interest herein, so as to provide a legal mechanism to ensure that the required open space as documented remains open in perpetuity.
 - (4) The proposed planned unit development shall meet all of the general standards outlined herein.
- C. Uses that may be permitted. The following uses of land and structures may be permitted within planned residential unit development, subject to the district limitation as therein after listed:
- (1) Single-family dwellings. In any R District.
 - (2) Two-family dwellings. In R-2 or B District.
 - (3) Townhouses, row houses, or other similar housing types which can be defined as a "single-family attached dwelling" with no side yards between adjacent dwelling units in R Districts, provided that there shall be no more than a length of 150 feet in any contiguous group allowed within the R-2 District, nor shall there be more than a length of 200 feet in B Districts.
 - (4) Apartments. In R-2 or B Districts.
 - (5) Recreation and open space, as defined (in any R District), provided that only the following land uses may be set aside as common land for open space or recreational use under the provisions of this section.
 - (a) Private recreation facilities, such as golf courses, swimming pools or other recreation facilities which are limited to the use of the owners or occupants of the lots located within the planned unit development.
 - (b) Historic building sites, or historical sites, parks and parkway areas, ornamental parks, extensive areas with tree cover, lowlands along streams or areas of rough terrain, when such areas have natural features worthy of scenic preservation.
 - (6) Planned neighborhood shopping centers in an R-2 or B District.
- D. Lot variation and development regulations. The lot area for planned unit developments within Residential R Districts may be averaged or reduced from those sizes required by the applicable zoning district within which said development is located by compliance with the following requirements:
- (1) Site acreage computation.

- (a) The gross acreage proposed for a planned unit development shall be computed to determine the total land area available for development into lots under the minimum lot size requirements of the applicable zoning district in which the proposed planned unit development is located.
- (b) In arriving at a gross acreage figure, the following lands shall not be considered as part of the gross acreage in computing the maximum number of lots and/or dwelling units that may be created under this procedure:
 - [1] Land utilized by public utilities as easements, for major facilities such as electric transmission lines, sewer lines, water mains or other similar lands which are not available to the other because of such easement. Lands within floodways.
- (2) Maximum number of lots and dwelling units. After the total gross area available for development has been determined by the above procedure, the maximum number of lots and/or dwelling units that may be approved within a planned unit development shall be computed by subtracting from the total for street right-of-way purposes and dividing the remaining net area available by the minimum lot area requirements of the zoning district in which the planned unit development is located.
- (3) Fixed percentages for street right-of-way purposes.
 - (a) The fixed percentages for street right-of-way purposes to be subtracted from the total gross area available for development shall be determined according to the following schedule:

District Use	Percent of Project Area
R-1 and R-2 (single-family detached)	25%
R-1, R-2, B (single-family attached, two-family and multiple-family)	20%

- (b) These percentages shall apply regardless of the amount of land actually required for street right-of-way.
- (c) Under this procedure, individual lots may be reduced in area below the minimum lot size required by the zone district in which the planned unit development is located, provided that the total number of dwelling units and/or lots created within the development is not more than the maximum number that would be allowed if the tract were developed under the minimum lot area requirements of the applicable zone district in which it is located.
- (d) Recognizing that good project planning, provision of adequate and developed open space and sound site design minimize the effects of crowding associated with higher densities, the developer at the time of a special use permit may also request a maximum of up to 20% increase in permitted dwelling unit density, as above-computed.

- (e) Said request may be granted as a condition of special use permit, provided increased density does not result in creation of any of these conditions:
 - [1] Inconvenience or unsafe access to the planned development.
 - [2] Traffic congestion in streets which adjoin the planned development.
 - [3] An excessive burden on public service or utilities including schools which serve the planned development.
 - (4) Permissive minimum lot area. Notwithstanding other procedures set forth in this section, lot sizes within planned unit developments shall not be varied or reduced in area below the following standards:
 - (a) One-family detached dwelling structure: 4,800 square feet of lot area.
 - (b) Two-family dwelling structure: 6,200 square feet of lot area.
 - (c) Townhouses, row houses or other similar permitted single-family attached dwelling types: 6,200 square feet of lot area for the first dwelling unit in each structure, plus 2,000 square feet for each additional dwelling unit within a structure.
 - (5) Permissive minimum yard requirements. Under the lot averaging or reduction procedure, each shall have at least the following minimum yards:
 - (a) Front yard: 15 feet for all dwellings, provided that front yard requirements may be varied by the Planning Commission after consideration of common green space or other common open space if such provides an average of 15 feet of front yard area per dwelling unit.
 - (b) Side yard: eight feet on each side for all one-family and two-family dwellings; none for townhouses or row houses, provided that there shall be a minimum of 20 feet between end of contiguous groups of dwelling units.
 - (c) Rear yard: 20 feet for all dwellings, provided that rear yard requirements may be varied by the Planning Commission after consideration of common open space lands or parks which abut the rear yard area.
 - (d) Perimeter setback. The yard requirements at the exterior boundaries of the project will not be less than the minimum yards required in the district where located.
 - (6) Maximum permissive building height: 2 1/2 stories, but not exceeding 35 feet. Accessory buildings shall not exceed a height of 15 feet.
- E. Open space requirements. For each square foot of land gained through the averaging or reduction of lot sizes under the provisions of this section, equal amounts of land shall be provided in open space, as defined in Article II. There is no maximum amount of open space that may be set aside as open space. All open space, tree cover, recreational area, scenic vista or other authorized open land areas shall be either set aside as common land for the sole benefit, use and enjoyment of present and future lot or home owners within the development, or shall be dedicated

to the general public as parkland for the use of the general public. The Planning Commission shall determine which of these options is most appropriate and shall recommend to the legislative body one of the following procedures as part of its approval of a special use permit for a planned unit development:

- (1) That open space land shall be owned by the landowner or owners or a homeowners' association or other similar nonprofit organization so that fee simple title shall be vested in tract lot owners as tenants in common, provided that suitable arrangements have been made for the maintenance of said land and any buildings thereon, and provided further that a copy of the open space easement for said land be conveyed to the legislative body to assure that open space land remain open.
- (2) That open space land shall be dedicated to the general public for parks or recreational purposes by the tract owner or owners, provided that the location and extent of said land conforms to the development plan and provided further that access to and the characteristics of said land is such that it will be readily available to and desirable for public use, development and maintenance.
- (3) It is the intent of this section that the owners or developers of the planned unit development shall not be compelled or required to improve the natural condition of said open space lands.

F. Street development requirements. Street standards and specifications adopted by the Midland County Road Commission and all applicable local standards shall be complied with for all street improvements.

§ 300-68. Open space development. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

This chapter is intended to provide an optional method for residential development, as required by Act 110 of the Public Acts of 2006 (MCLA § 125.3101 et seq.), allowing for a minimum of 50% open space in the total proposed development. A residential development compatible with the open space preservation ordinance shall achieve economy and efficiency in the use of land and natural resources, to provide for efficiencies and economics in providing public services and utilities to encourage the development of more useful open space. The residential development shall not detract from the surrounding rural areas in which it is located and shall be consistent with the intent of the Township to provide safe, quality housing for its residents.

A. Applicability. All lots created after the effective date of this chapter where residences are permitted by rights at a density of two dwelling units per acre or less. These provisions shall apply in the following districts:

- (1) R-1.
- (2) All planned unit development (PUD) projects, as permitted in this chapter, subject to all the provisions of § 300-67, Planned residential unit development, and all other applicable provisions of Article XII and this chapter.

B. Development standards.

- (1) Density. The maximum density permitted in an open space development is equal to the density in the existing zoning district.
 - (2) Site development requirements. Site development requirements for open space developments will follow the regulations in the existing zoning districts, with the following exceptions:
 - (a) Minimum lot area: 9,500 square feet.
 - (b) Minimum lot frontage: 80 feet.
 - (c) Rear yard setback: 20 feet.
 - (d) Maximum lot coverage: not applicable.
 - (3) Buffer requirements. When located adjacent to existing residential development, the proposed open space development shall provide a minimum of 100 feet between the property line of the adjacent residential development and the nearest structure within the open space development. This buffer does not count toward the open space requirement.
- C. Application procedures. A developer who wishes to use the open space development option shall submit two concept plans for review by the Zoning Administrator and the Planning Commission. These concept plans shall be prepared in accordance with the site plan requirements in Article XIII and the following additional requirements:
- (1) Density concept. One concept plan shall portray the development of the dwelling units on the site according to the requirements for the zoning district in which the site is located with respect to lot area, width, setbacks, and all other dimensional requirements. The proposed density must be realistic in terms of the project area that would actually be buildable. Wetlands, floodplains, areas that are reserved for roads or utility easements, and other areas that are unbuildable shall be excluded from the project density calculations.
 - (2) Open space concept. The other concept plan shall portray the development of the dwelling units in a manner so that at least 50% of the land area of the site will perpetually remain in an undeveloped state. The open space concept plan shall contain the same number of dwelling units as the density concept plan.
 - (3) Project narrative. The applicant shall provide a written narrative that explains the project and its benefits. The narrative should specifically address all elements of the project that would not comply with the zoning district regulations that would apply to the density concept plan.
 - (4) Long-term maintenance plan and maintenance schedule. The applicant shall provide a written narrative that details the proposed maintenance plan for the portion of the property to remain undeveloped. The plan should detail the specific maintenance that will occur, how often and how it will be perpetually funded.
- D. Approval standards. The following requirements, in addition to the general

standards contained within this chapter, must be met:

- (1) Water supply and wastewater disposal. The proposed development will comply with all requirements of the Midland County Department of Public Health for residential water supply and wastewater disposal.
 - (2) Land Division Act. The proposed development will comply with all requirements of the Land Division Act.¹²
 - (3) Creation of open space. At least 50% of the project land area will remain perpetually in an undeveloped state, as previously defined in this section, by means of conservation easement, plat dedication, restrictive covenant, or other legal means that runs with the land and that is acceptable to the Township. The conservation easement, plat dedication, restrictive covenant or other legal means must include the maintenance agreement as proposed by the developer and approved by the Township. Failure to maintain the property as agreed is equal to a failure to abide by this chapter and the approval of the Planning Commission. Furthermore, the conveyance should provide for the assessment of the private property owners by the Township for the cost of maintenance of the open space in the event that it is inadequately maintained and becomes a public nuisance.
- E. Maintenance of open space. The open space as identified and approved in the open space development must be maintained as agreed and identified in the narrative submitted under this section. As part of the special land use approval, the owner or owners of the open space development agree to provide access to the Township Zoning Administrator to inspect the maintenance of the open space. Approval of this open space development special land use provides the Township the right to, after inspection and request of the developer, provide maintenance of the open space area as specified within the approval at a cost of the maintenance to the Township, plus 25%. These costs will be distributed among the property owners within the development by special assessment.

§ 300-69. Planned neighborhood shopping centers.

- A. Authorization. Continued urban expansion, the ever-increasing needs of neighborhood residents for services and goods which are conveniently located and attractive, together with the undesirable nature of strip commercial and scattering of commercial uses, require provisions for planned neighborhood shopping centers within developing areas. These centers are required to have flexibility of location, yet their impact upon adjacent properties and public facilities must be controlled in the public interest. It is the purpose of this section to arrange sound, planned, neighborhood shopping facilities within developing areas, without the necessity of indicating specific sites in advance. Planned neighborhood shopping centers may be allowed with R-2 Residential Districts or in conjunction with a Planned Unit Residential Development upon issuance of a special use permit where all the provisions of this section are met.
- B. Objectives. The following objectives shall be considered in reviewing any

12. Editor's Note: See MCLA § 560.101 et seq.

application for a special use permit for a planned neighborhood shopping center:

- (1) To promote a more complete urban design which includes necessary neighborhood services conveniently located and attractively designed.
 - (2) To encourage developers to use creative and imaginative approaches in the development of neighborhoods.
- C. Qualifying conditions. To qualify for consideration as a planned neighborhood shopping center the following considerations shall be met:
- (1) The proposed center is designed and will be developed with a unified architectural treatment.
 - (2) The center shall be one site of no less than four acres and shall contain at least five individual uses.
 - (3) The center must have one property line on a street classified as a "principal" or "arterial" and be provided with adequate ingresses and egresses, including provision of a service lane running the length of the property abutting the arterial.
- D. Uses that may be permitted. The following uses of land and structures may be permitted within a planned neighborhood shopping center:
- (1) Retail food establishments, as permitted in B-2 Business Districts.
 - (2) Other retail businesses, as permitted in B-2 Districts.
 - (3) Personal service establishments, as permitted in B-2 Districts.
 - (4) Offices for professional services, as permitted in B-2 Districts.
 - (5) Professional and administrative offices, as permitted in B-2 Districts.
 - (6) Restaurants, and other eating or drinking establishments which provide food or drink for consumption on the premises, provided that such establishments shall not be so-called "drive-in" facilities and that no dancing or entertainment shall be permitted.
 - (7) Temporary outdoor uses, such as displays, Christmas tree sales lots, revival tents, or other quasi-civic activities may be permitted on a temporary basis without a public hearing by the Zoning Board of Appeals, provided that such permit shall not be issued for more than 30 days in any one year and that said use can be adequately shown not to be injurious or detrimental to properties in the immediate vicinity.
 - (8) Signs, as provided in Article V.
 - (9) Off-street parking and loading as required and allowed.
- E. Development requirements. In addition to qualifying conditions listed in Subsection C (above), the following requirements shall be met:
- (1) Minimum yard requirements.

- (a) Each lot shall have a minimum front yard of 30 feet, and said yard, except for necessary drives or walks, shall remain clear and shall not be used for parking, loading or accessory structures.
 - (b) Side yards shall be of not less than 30 feet and, further, in the case of a corner lot, the side yard on the street side shall be a minimum of 25 feet.
 - (c) Each lot shall have a rear yard of 30 feet.
 - (d) Side yards abutting any residentially zoned property shall contain an opaque fence or wall four feet in height.
- (2) Maximum building height.
- (a) The maximum building height shall be 2 1/2 stories or 35 feet.
 - (b) Exceptions (refer to Article III, § 300-10).
- (3) Maximum lot coverage. The maximum coverage of land by all buildings shall not exceed 20%.
- (4) Off-street parking requirements. Requirements for an allowed use shall be determined from the "Schedule of Parking Requirements" in Article IV (refer to § 300-18).
- (5) Loading requirements.
- (a) Any use engaged in the sale of merchandise, including prepared foods and beverages, shall provide at least one standard loading space, regardless of floor area, and at least one standard loading space for each 6,000 square feet or major fraction thereof of gross floor area involved in the use.
 - (b) Supplementary regulations are contained in Article IV.

§ 300-70. Day nurseries.

- A. Authorization. In order to facilitate the care of schoolchildren, this section provides for the inclusion of nursery schools and child-care centers within Districts R-1 and R-2 and B-1 and within religious institutions within any zone district. When all of the procedures and applicable requirements stated and the additional requirements of this section can be complied with, this use may be authorized by the issuance of a special use permit or as otherwise cited.
- B. Uses that may be permitted. Nursery schools, day nurseries and child-care centers (not including dormitories) may be authorized, provided that there shall not be more than one dwelling unit used for residential purposes on the site.
- C. Development requirements. The following requirements for site development, together with any other applicable requirements of this chapter, shall be complied with:
- (1) Pickup and dropoff must be designed so as not to interfere with the function of the roadway on or adjacent to the property.

- (2) The development must meet all applicable requirements and guidelines per state law.

§ 300-71. Funeral homes.

- A. Authorization. Because funeral homes perform special and necessary services to urban populations, and in recognition of the unique locational and site development characteristics of these functions, such uses of land may be authorized by special use permit within designated residential districts when all of the procedures and applicable requirements stated and the additional requirements of this section can be complied with.
- B. Uses that may be permitted. Funeral homes, provided that the conduct of all aspects of activities related to such uses shall take place within the principal building and not in an accessory building. A caretaker's residence may be provided within the principal building and not in an accessory building.
- C. Development requirements. The following requirements for site development, together with any other applicable requirements of this chapter, shall be complied with:
 - (1) Minimum site size. One acre site with a minimum width of 150 feet.
 - (2) Site location. The proposed site shall front upon a major or minor arterial or principal collector as classified on the adopted street plan. All ingress and egress to the site shall be directly from said thoroughfare.
 - (3) Yards. Front, side and rear yards shall be at least 40 feet, except on those sides adjacent to nonresidential districts, wherein it shall be 20 feet. All yards shall be appropriately landscaped in trees, shrubs and grass. No structures or parking areas shall be permitted in said yards, except that rear yards may be used for parking purposes under the requirements specified, and except for required entrance drives and those walls and/or fences used to obscure the use from abutting residential districts.

§ 300-72. Automobile service station.

- A. Authorization. Automobile service stations may be permitted by special land use permit or as otherwise cited upon the issuance of a special use permit which complies with the stated requirements and with the general standards set forth. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
- B. Objectives. It is the intent of this section to exercise a measure of control over service stations and permitted buildings and their sites, and to establish a basic set of standards within which individual solutions may be developed to meet the retail service needs of motor vehicles. The objectives of the regulations set forth in this section are to:
 - (1) Promote the type of development which will be compatible with other land use activities located in areas where service stations will be constructed.
 - (2) Control those aspects of service station design, site layout, and operation

which may, unless regulated, be damaging to surrounding uses of land.

- (3) Minimize the traffic congestion and safety hazards which are inherent in service station activity.
- C. Uses that may be permitted. Automobile service stations, as defined in Article II, § 300-6, including the servicing of motor vehicles under 1 1/2 tons' rated capacity, such as minor adjustments to motor vehicles, including car washes, attached food store/convenience store and food sales, provided such accessory uses and services are conducted wholly within a completely enclosed building. Body repair, engine overhauling, steam cleaning or other mechanical or physical modifications to motor vehicles is specifically prohibited. Markets, convenience store, food service and other such similar uses may be permitted in conjunction with an automobile service station, provided that the use is accessory to the service station.
- D. Site development requirements. The following requirements for site development, together with any other applicable requirements of this chapter, shall be complied with:
- (1) Minimum site size. Fifteen thousand square feet with a minimum width of 150 feet.
 - (2) Site location. The proposed site shall have at least one property line on a principal or minor arterial.
 - (3) Building setback. The service station building, or permitted buildings, shall be set back 50 feet from all street right-of-way lines and shall not be located closer than 50 feet to any property line in a residential district unless separated therefrom by a street or alley.
 - (a) No installations, except walls or fencing and permitted signs, lighting and essential services, may be constructed closer than 20 feet to the line of any street right-of-way.
 - (b) Hydraulic hoists, pits and all lubrication, greasing, automobile washing and repair equipment shall be entirely enclosed within a building.
 - (4) Access drive. No more than two driveway approaches shall be permitted directly from any principal or minor arterial nor more than one driveway approach from any other street, each of which shall not exceed 35 feet in width at the property line.
 - (a) If the service station or permitted building site fronts on two or more streets, the driveways shall be located as far from the street intersection as practicable, but not less than 50 feet.
 - (b) No driveway or curb cut for a driveway shall be located within 10 feet of an adjoining property line and shall not be less than 25 feet from any adjacent lot within an R Residential District, as extended to the curb or pavement.
 - (c) Any two driveways giving access to a single street should be separated by an island with a minimum dimension of 20 feet at both the right-of-

way and the curb or edge of the pavement.

- (5) Curbing and paving. A raised curb at least six inches in height shall be erected along all of the street property lines, except at driveway approaches. The entire service area shall be paved with a permanent surface of concrete or asphalt.
- (6) Fencing. A solid fence or wall four feet in height shall be erected along all property lines abutting any lot within a residential district.
- (7) Signs, as provided in Article V, provided that no signs, whether permanent or temporary, shall be permitted within the public right-of-way.
- (8) Off-street parking shall be provided in conformance with the schedule outlined in Article IV.
- (9) Lighting. Exterior lighting shall be so arranged so that it is deflected away from adjacent residential districts and adjacent streets. The height of lighting shall not exceed 12 feet when located within 200 feet of a residential district and, further, may not exceed a height of 16 feet otherwise.

§ 300-73. Wireless communication facilities (for commercial operations).

- A. Authorization. Changing technology in the field of communications has resulted in a reliance upon more versatile convenient forms of communication. Businesses, individuals and government have all developed a strong dependence upon the ability to quickly contact others. The use of radios and cellular phones have proven themselves over and over again in emergency situations.
- B. Qualifying conditions. The following site and developmental requirements shall apply:
 - (1) Communication towers shall be restricted to self supporting structures. The use of guy wires is prohibited.
 - (2) The base of the tower and accessory structures shall be enclosed with a minimum six-foot-high fence.
 - (3) Special performance standards:
 - (a) The tower must be set back from all property lines a distance equal to its height, unless engineering plans and specifications have been verified by a report from a structural engineer registered in Michigan showing the tower antenna capacity by type and number, and a certification that the tower is designed to withstand winds in accordance with ANSI/EIA/TIA 222 (latest revision) standards, which tower shall be a self-supporting lattice tower or a self-supporting monopole. The applicant shall incur all costs associated with the review of such a report.
 - (b) Towers shall be set back from property lines a minimum distance equal to its height when erected on a parcel that abuts other R-1 or residentially zoned or used parcels. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

- (c) Accessory structures are limited to uses associated with the operation of the tower and may not be located any closer to any property line than 30 feet.
- (d) Accessory structures shall be designed to be aesthetically compatible with the adjoining properties. This may include the construction of a brick facade and a pitched roof.
- (e) Accessory structures shall not exceed 400 square feet of gross building area per structure.
- (f) All buffer yard requirements within this chapter shall be met.
- (g) All towers shall be equipped with an anticlimbing device to prevent unauthorized access.
- (h) The plans of the tower construction shall be certified by a Michigan-registered structural engineer.
- (i) The applicant shall provide verification that the antenna mount and structure have been reviewed and approved by a professional engineer and that the installation is in compliance with all applicable codes.
- (j) All towers must meet the standards of the Federal Aviation Administration, the Federal Communications Commission and the Tri-City Area Joint Aviation Committee.
- (k) Communication towers in excess of 175 feet in height above grade level shall be prohibited within two miles of a public airport property boundary or a one-half-mile radius of a helipad.
- (l) Metal towers shall be constructed of, or treated with, corrosive-resistant material and shall be painted a color approved by the Township Zoning Administrator/Building Inspector. The applicant shall submit a maintenance program acceptable to the Township. The antenna shall be painted to match the exterior treatment of the tower.
- (m) Antennae and metal towers shall be grounded for protection against a direct strike by lightning and shall comply as to electrical wiring and connections with all applicable local statutes, regulations and standards.
- (n) Towers with antennae shall be designed to withstand a uniform wind loading as prescribed in the current Township Building Code.
- (o) All signals and remote control conductors of low energy extending substantially horizontally above the ground between a tower or antenna and or structure, or between towers, shall be at least eight feet above the ground at all points, unless buried underground.
- (p) Towers shall be located so that they do not interfere with reception in nearby residential areas.
- (q) All signals and remote-control conductors of low energy extending substantially horizontally above the ground between a tower or antenna

and a structure, or between towers, shall be at least eight feet above the ground at all points, unless buried underground.

- (r) Towers shall be located so there is room for vehicles doing maintenance to maneuver on the property owned and/or leased by the applicant.
- (s) The base of the tower shall occupy no more than 500 square feet.
- (t) Minimum spacing between tower locations shall not be less than a 1 1/2 mile radius to prevent a concentration of towers in one area. This shall include a distance of neighboring township towers.
- (u) The height of the tower shall not exceed 175 feet from grade within all applicable districts.
- (v) Towers shall not be artificially lit unless required by the Federal Aviation Administration.
- (w) Existing on-site vegetation shall be preserved to the maximum extent practical.
- (x) There shall not be displayed advertising or identification of any kind intended to be visible from the ground or other structures, except as required for emergency purposes.
- (y) All parking and drive areas must be paved as provided in this chapter.
- (z) The developer shall plant two alternating rows of evergreen trees with a minimum height of five feet on twenty-foot centers along the entire perimeter of the tower and related structures. In no case shall the evergreens be any closer than 10 feet to any structure.
- (aa) The tower and site compound shall be removed by the property owner or lessee within six months of being abandoned. The Township will require an irrevocable performance bond to ensure its removal in an adequate amount.
- (bb) A conceptual plan must be submitted by the applicant which indicates the contemplated area left within the Township that the communication provider may construct other towers.
- (cc) Towers shall be designed to provide for co-location. If the applicant demonstrates that he or she cannot co-locate on an existing tower, the applicant must provide documentation satisfactory to the Township that co-location is not possible.
- (dd) Subject to the conditions in this subsection, the Township may permit the location of personal wireless communication facilities on any Township-owned and -occupied land.
- (ee) The applicant shall submit a copy of a valid FCC license for the proposed activity, or proof that the applicant or carrier is the successful bidder for an FCC license at auction and that the final issuance of the FCC license purchased at auction is pending.

- C. Site and development requirements. All communication towers shall satisfy the following site and development requirements:
- (1) A minimum site of one acre with a minimum of 150 feet of road frontage.
 - (2) The base of the tower and wire cable support shall be fenced with a minimum six-foot-high fence.
 - (3) The use of guy wires is strictly prohibited in all districts.
- D. Special performance standards. All communication towers shall satisfy and comply with the following special performance standards:
- (1) The tower must be set back from property lines a distance equal to its height, unless engineering plans and specifications have been verified by the Township Engineer that the structural integrity of the tower will withstand high winds and impacts, and the likelihood of a tower failure is minimal. No guy wires are permitted. The applicant shall incur all costs associated with the Township engineering review. In no case shall a tower be located within 60 feet of a property line.
 - (2) Accessory structures are limited to use associated with the operation of the tower and may not be located any closer than 30 feet to any property line.
 - (3) Accessory structures shall not exceed 600 square feet of gross building area. If co-location is used, one such accessory structure is allowed for each provider, not exceeding five accessory structures.
 - (4) There shall be no employees located on the site on a permanent basis to service or maintain the antenna. Occasional or temporary repair and service activities are excluded from this restriction.
 - (5) All parking and drive areas must be, at a minimum, gravel-surface.
 - (6) Where the property adjoins any residentially zoned property or land use, the site shall be landscaped in accordance with the landscape requirements established by the Planning Commission. Existing mature tree growth and natural landforms on the site may be used in lieu of required landscaping, where approved by the Planning Commission.
 - (7) The property owner shall remove the tower within six months of being abandoned. The communications tower shall be deemed abandoned if, for a continuous period of six months, none of the antenna or other communication devices attached thereto are operational.

§ 300-74. Miscellaneous special uses.

- A. Authorization. It is the intent of this section to provide a framework of regulatory standards which can be utilized by the Charter Township of Midland Board of Trustees as a basis for approving or disapproving certain uses which may be permitted by the issuance of a special use permit within the particular zone districts cited.

- B. Special uses that may be permitted. The following land and structure uses may be permitted within the particular zone districts, provided that requirements specified and the applicable specified conditions established herein can be complied with:
- (1) Incinerators and all disposal type sites. Refer to Chapter 246, Solid Waste, Article I, Waste Disposal, of the Code of the Charter Township of Midland.
 - (2) Junkyards. Refer to Chapter 164, Junkyards, of the Code of the Charter Township of Midland.
 - (3) Sewage and waste disposal.
 - (4) Drive-in theaters, racetracks, golf driving ranges and miniature golf courses or similar use.
 - (5) Institutions for the mentally retarded and physically handicapped, drug or alcoholic patients and camps or correction institutions.
 - (6) Sand, quarry, or gravel pits. Refer to Chapter 240, Soil Removal, of the Code of the Charter Township of Midland.
 - (7) Airports and commercial landing strips within any designated residential district.
 - (8) Commercial windmills and wind-powered electricity-generating devices.
 - (9) Kennels.
 - (10) Adult uses.
- C. Site development requirements. A special use permit shall not be issued for the occupancy or use of a structure or a parcel of land, or for the erection, reconstruction, or alteration of a structure, unless complying with the following site development requirements. The powers of the Township Board of Trustees after recommendation by the Township Planning Commission shall have the authority to revoke any special use permit when, after reasonable warning, the operators of any use permitted under this section fail to comply with any of the requirements stipulated. The Planning Commission as part of its review of a particular special use permit may recommend any additional conditions and safeguards that are deemed necessary for the protection of the public welfare.
- (1) Incinerators and sanitary landfills.
 - (a) All uses shall be established and maintained in accordance with all applicable State of Michigan statutes. If any of the requirements of this subsection are less than those in applicable state and federal statutes, the state and federal requirements shall prevail.
 - (b) All uses shall be enclosed by a fence six feet or more in height for the entire periphery of the property. Fences shall be adequate to prevent trespass and contain debris.
 - (c) All areas within any single development shall be rehabilitated progressively as they are worked out or abandoned so that they shall be

in a condition of being entirely lacking in hazards, inconspicuous and blended with the general surrounding ground form.

- (d) The Planning Commission shall establish routes for truck movement in and out of the development in order to minimize the wear on public streets, to minimize traffic hazards, and to prevent encroachment of traffic, or the by-products of traffic (such as dust and noise), upon adjacent properties.
 - (e) All permitted installations shall be maintained in a neat, orderly condition so as to prevent injury to any single property, and individual, or the community in general.
- (2) Junkyards. Refer to Chapter 164, Junkyards, of the Code of the Charter Township of Midland.
- (3) Sewage treatment and disposal installations.
- (a) All uses shall be established and maintained in accordance with all applicable State of Michigan statutes. If any of the requirements of this subsection are less than those in applicable state statutes, the state requirements shall prevail.
 - (b) All operations and structures shall be completely enclosed by a wire link fence not less than six feet high.
 - (c) All operations and structures shall be surrounded on all sides by a transition strip at least 200 feet in width within which grass, plant materials and structural screens shall be placed to minimize the appearance and odors of the installations. The Planning Commission shall approve all treatment of transition strips.
- (4) Drive-in theaters, racetracks, golf driving ranges and miniature golf courses or similar uses.
- (a) All sites shall be located on a principal or minor arterial or collector street.
 - (b) All traffic ingress and egress shall be from said thoroughfares. Local traffic movement shall be accommodated within the site so that entering and exiting vehicles will make normal and uncomplicated movements into or out of the major thoroughfares.
 - (c) All points of entrance or exit for motor vehicles shall be located no closer than 200 feet from the intersection of any two streets or highways.
 - (d) All vehicles shall have clear vertical and horizontal sight approaching a public street within 100 feet of the street for a sight distance of 500 feet in either direction along the street.
 - (e) Acceleration and deceleration lanes shall be provided to points of ingress and egress to the site. Left turns at entrances and exits should be prohibited on the major thoroughfare where possible.

- (f) Whenever any use that may be permitted in the subsection abuts property within a residential district, a transition strip at least 100 feet in width shall be provided between all operations and structures, including fences and the residential property. Grass, plant materials and structural screens of a type approved by the Planning Commission shall be placed within said transition strip.
 - (g) A minimum yard of 100 feet shall separate all uses, operations and structures permitted herein, including fences, from any public street or highway used for access or exit purposes. This yard shall be landscaped in accordance with plans approved by the Planning Commission.
 - (h) Racetracks shall be enclosed for the entire used site for their full periphery with a solid screen fence at least eight feet in height. Fences shall be of sound construction, painted or otherwise finished attractively and inconspicuously.
- (5) Institutions for the mentally retarded and physically handicapped, drug or alcoholic patients and camps or correctional institutions.
- (a) The proposed site shall be at least 20 acres in area.
 - (b) The proposed site shall have at least one property line abutting a major or minor thoroughfare or principal collector as classified by the adopted street plan. All ingress and egress to the off-street parking area shall be directly from the major thoroughfare or collector.
 - (c) All two-story structures shall be at least 100 feet from all boundary lines or street lines. Buildings less than two stories shall be no closer than 50 feet to any property or street line. For buildings above two stories, the building shall be set back the initial 100 feet and an additional one foot for each foot of additional height above two stories.
 - (d) No more than 25% of the gross site shall be covered by buildings.
 - (e) Ambulance and delivery areas shall be obscured from all residential view by a solid masonry wall six feet in height. Access to and from the delivery area shall be directly from a major thoroughfare.
 - (f) All signs shall be in accordance with the schedule outlined in Article V.
 - (g) Off-street parking space shall be provided in accordance with the schedule outlined in Article IV.
- (6) Sand, clay or gravel pits or quarries. The excavation of sand, gravel, topsoil or other earthwork is hereby regulated by Chapter 240, Soil Removal, of the Code of the Charter Township of Midland.
- (7) Airports and commercial land strips.
- (a) All uses shall be established and maintained in accordance with all applicable state and federal statutes. If any of the requirements of this subsection are less than those in the applicable state and federal statutes,

the state and federal requirements shall prevail.

- (b) The proposed site shall be at least 2,640 feet by 500 feet.
 - (c) Any runway shall have a minimum length of 1,500 feet with a 500-foot clearance at each of the runway's ends.
 - (d) The site in question shall have at least one property line abutting a collector or mile road.
 - (e) Buildings, height limits, lighting, parking and uses and activities shall be in accordance with applicable FAA and MAC regulations.
- (8) Commercial windmills and wind-powered electricity-generating devices, providing:
- (a) Minimum lot size required shall be two acres.
 - (b) The total maximum height permitted for such structures, including blades, shall not exceed 60 feet or 15 feet above the surrounding native trees, whichever is less.
 - (c) The structure shall not be closer to any adjacent lot line than the height of the structure and in no case less than 100 feet from an adjacent lot line.
- (9) Kennels.
- (a) A minimum lot size of five acres shall be maintained.
 - (b) Any building or fenced area where animals are kept shall be located a minimum of 200 feet from any public right-of-way, 100 feet from any property line and 150 feet from any residential dwelling located off the premises.
 - (c) The kennel shall be established and maintained in accordance with all applicable state, county and Township sanitation regulations. Odor, dust, noise, drainage or insects shall not constitute a nuisance to adjoining properties.
- (10) Adult uses. In the development and execution of this chapter, it is understood there are some uses which, because of their very nature, have serious objectionable operational characteristics. Particularly, when several of them are concentrated in certain circumstances, a deleterious effect on adjacent areas results. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of surrounding neighborhoods. These special regulations are itemized in this section. Primary control or regulation is for the purpose of preventing a concentration of these uses in any one area or next to residential zoning or certain institutional uses.
- (a) Distance restrictions. The following listed uses shall not be permitted to be established within 1,500 feet of each other:
 - [1] Adult-related businesses.

- [2] Adult bookstores.
 - [3] Adult motion-picture theaters.
 - [4] Adult mini motion-picture theaters.
 - [5] Exotic cabarets.
 - [6] Massage parlors.
 - [7] Public baths.
- (b) It shall be unlawful hereafter to establish an adult-related business within 1,000 feet of any residentially zoned property, or within 1,000 feet of any religious or educational institution, public park, or recreational land use.
- (c) Signage and exterior display.
- [1] Window displays, signs, or decorative or structural elements of buildings shall not include or display examples of actual adult uses and are limited to the signage provisions stated in Article V of this chapter.
 - [2] No adult use shall be conducted in any manner that permits the observation of any material depicting, describing, or relating to specific sexual activities or specified anatomical areas from any public way or from any property not registered as an adult use. This provision shall apply to any display, decoration, sign, show window, structural element, or other opening.
- (d) Precautionary note to the Board of Appeals. When considering any appeal from adult-only business for reduction of spacing or separation standards established herein, the Board of Appeals shall address each of the following issues and include the findings regarding each point in its minutes.
- [1] Ordinance intent. The proposed use shall not be contrary to the intent and purpose of this chapter, or be injurious to nearby properties.
 - [2] Blighting influence. The proposed use shall not enlarge or encourage the development of a concentration of such uses or blighting influences.
 - [3] Neighborhood conservation. The proposed use shall not be contrary to any program of neighborhood conservation, revitalization, or renewal.
 - [4] Other standards. The proposed use and its principal building shall comply with all other regulations and standards of this chapter.

ARTICLE XIII
Administration

§ 300-75. General administration; powers and duties; fees.

The provisions of this chapter shall be carried out by the Midland Charter Township Planning Commission, the Zoning Board of Appeals, the Zoning Enforcement Officer and the Township Board of Trustees in conformance with applicable State of Michigan enabling legislation.

- A. Responsibility. The Township Board of Trustees shall employ a Zoning Administrator (Zoning Enforcement Officer) to act as its officer to effect proper and adequate administration of this chapter. The Township Board of Trustees may designate the Building Inspector as the Zoning Administrator. For the purposes of this chapter, the two shall be interchangeable. The term of employment, compensation and any other conditions of employment shall be established by the Township Board of Trustees. For the purposes of this chapter, the Zoning Administrator shall have the power of a police officer.
- B. Duties of Building Inspector and/or Zoning Administrator.
- (1) All applications for permits or certificates of occupancy shall be submitted to the Building Inspector and/or Zoning Administrator, who may issue certificates of occupancy or sign permits when all applicable provisions of this chapter have been met. The Building Inspector and/or Zoning Administrator shall be empowered to make inspections of buildings or premises to carry out their duties in the enforcement of this chapter.
 - (2) Under no circumstances is the Zoning Administrator and/or the Building Inspector permitted to make changes in this chapter nor to vary the terms of this chapter in carrying out their duties.
- C. Fees. An application or request for a Building Permit, site plan reviews, special land use applications, rezoning, and issues directed to the Zoning Board of Appeals shall be accompanied by a fee to defray the actual costs thereof the Township. All fees shall be payable to the Township Treasurer to the credit of the general fund of the Township. The Township Board shall, by resolution, from time to time, establish the amount of such fees. The Township may retain professional assistance in performing such reviews with those costs to be passed on to the applicant, only when and if the applicant is made aware of the costs prior to the application.

§ 300-76. Zoning compliance certificates.

A certificate of zoning compliance is issued by the Zoning Administrator and/or Building Inspector to ensure that the use and physical development of the site conforms with all applicable provisions of this chapter and all other requirements of this chapter. A certificate of zoning compliance is required for the occupancy, use or change of any use of any property within the Township. The certificate of zoning compliance may certify that the new construction meets this chapter or that a new business complies with the zoning requirements applicable to its proposed location.

- A. A zoning compliance certificate is required for any and all of the following

circumstances:

- (1) Occupancy and use of a new structure.
 - (2) A change in use of an existing building.
 - (3) Occupancy and use of vacant land except for the raising of crops.
 - (4) A change in the use of land except for the raising of crops.
 - (5) Any change in a nonconforming use.
- B. In case of undue hardship as determined by the Zoning Administrator and/or Building Inspector, a temporary or partial certificate of zoning compliance may be issued for up to six months, provided that:
- (1) The site and building are in safe, usable condition.
 - (2) All site development requirements are substantially completed, but due to unavoidable delays such as adverse weather conditions or other such items, cannot be entirely completed in a reasonable time.
 - (3) The owner or owner's agent provides the Township with a deposit to ensure completion of all development requirements.
- C. The Zoning Administrator and/or Building Inspector shall have no power to vary or waive ordinance requirements. The Zoning Administrator and/or Building Inspector shall not issue a certificate of zoning compliance where it appears that any land area required to conform to the provisions of this chapter is also required, as a part of any adjoining property, to keep the development or use thereof in conformance with this chapter or to keep it from becoming more nonconforming if such land area was, at any time subsequent to the commencement of development use of such adjoining property, in common ownership with such adjoining property.

§ 300-77. Building permits and certificates of occupancy.

A building permit and certificate of occupancy shall be obtained from the Building Inspector and/or Zoning Administrator for any of the following:

- A. Change in the use of land or building that involves renovation, expansion or substantial modification of the structure or land.
- B. Any change in use or enlargement of a nonconforming use or building.
- C. Sign permit. Prior to the construction, erection or structural alteration of a sign, a permit shall be obtained from the Zoning Administrator and/or Building Inspector. Application shall be on a standard prepared form obtained from the Zoning Administrator and/or Building Inspector.
- D. Application requirements for building permit and certificate of occupancy.
 - (1) Application. In all cases where a building permit and certificate of occupancy shall be made not less than 10 days prior to the time when a new, changed or enlarged use of a building, structure or premise is intended to begin, the

certificate of occupancy will be issued after the last inspection.

- (2) Information required. Application for a building permit and certificate of occupancy shall be accompanied by a drawing, drawn to scale, showing the exact dimensions of the premises to which the building permit and certificate of occupancy is to apply; the lines of all lots or parcels under separate ownership contained therein; easements of access and public open spaces; the size, position and height of all buildings or structures erected or altered thereon; and such other information as may be deemed necessary by the Zoning Administrator and/or Building Inspector for the proper enforcement of this chapter. A copy of this form may be obtained from the Building Inspector and/or Zoning Administrator.
- (3) Issuance of certificate of occupancy. After notification that the building, structure or premises or part thereof is ready for occupancy and inspection, the Building Inspector and/or Zoning Administrator shall issue a certificate of occupancy which shall show such compliance. Nothing in this chapter shall prevent the issuance of a temporary occupancy permit for a portion of a building or structure in the process of erection or alteration; provided that such temporary certificate shall not be effective for a period of time in excess of six months; and provided further that such portion of the building, structure, or premises is in conformity with the provisions of this chapter. When a certificate of occupancy is denied on the grounds of a zoning violation, such refusal shall be stated, in writing, with reasons for said denial.
- (4) Duration of building permit. Building, electrical, plumbing, mechanical and any other such permits, except temporary and conditional permits, will be effective for a period of two years, but construction must commence within six months of issuance or the permit is void.
- (5) Date of establishment of legal nonconforming uses.
 - (a) Application for a certificate of occupancy shall be made to the Building Inspector and/or Zoning Administrator within 90 days of the date of the enactment of this chapter for any existing use of a building, structure, or premise at the time of passage of this chapter; and to determine the date of establishment of such uses for the purpose of Article III, § 300-7, of this chapter.
 - (b) The Zoning Administrator and/or Building Inspector shall certify, after proper examination, the extent and kind of use and whether or not the use conforms to district requirements. Failure to file such application shall place the burden of proof as to the date of establishment of any use upon the owner.
- (6) A noncompleted structure or a structure that is in noncompliance of this chapter would constitute a violation, and § 300-78 would be enacted. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

§ 300-78. Site plan review.

- A. When required.
- (1) Prior to the erection of any building or structure or additions thereto, change in use in any zoning district, any land use requiring special approval or any planned unit development, a site plan shall be submitted for review and approval. This review and approval shall be performed by the Zoning Administrator or by the Township Planning Commission.
 - (2) At no time shall a site plan be reviewed when considering a request for rezoning, except as provided for in Section 405 of the Zoning Enabling Act,¹³ conditional rezoning. A decision to rezone property should be based on the long-term goals and the future land use as determined in the Master Plan of the Township. Also, it is important to consider the timeliness of the development and the long-term use of land.
- B. Administrative review by the Township Zoning Administrator. The Zoning Administrator shall perform a site plan review for:
- (1) A change in the use of a structure or land that does not require additional parking and does not involve structural alterations.
 - (2) An accessory building to a nonresidential use containing 1,000 square feet or less.
 - (3) An addition to an existing nonresidential structure if the addition totals 10% or less of the existing structure, and only if the addition will be surfaced with material or materials which do not differ from materials on the existing structure.
 - (4) New residential development consisting of less than four homes constructed at a time.
 - (5) In order to perform this review, the Zoning Administrator may require the submission of information set forth in this section.
- C. The Zoning Administrator will transmit copies of the site plan to the departments as appropriate for review. Upon receiving recommendations from the different departments, the Zoning Administrator shall transmit the recommendations to the applicant, and if the applicant concurs with the staff recommendations, the site plan will be approved along with all the recommendations as agreed to by the applicant.
- D. In instances where the applicant does not concur with recommendations or where the Zoning Administrator deems Planning Commission review necessary during the administrative site plan review, the applicant or the Zoning Administrator may request the site plan be transmitted to the Township Planning Commission. The applicant will be required to pay the appropriate associated fee for site plan review.
- E. Site plan review by the Township Planning Commission. All other structures and uses of land or buildings not covered in § 300-78B shall be reviewed by the Township Planning Commission, and the following site plan review procedures shall be followed:

13. Editor's Note: See MCLA § 125.3405.

- (1) Application deadlines. If a zoning application requires a site plan review by the Planning Commission pursuant to § 300-78A, a complete application package must be received 30 days prior to the meeting of the Township Planning Commission.
- (2) Application. The application requesting a site plan review must be accompanied by a fee, as established by the Township Board. The application will not be reviewed until all requirements, including the fee, have been paid. The site plan must include all relevant items listed below, including the seal and signature of an engineer licensed within the State of Michigan.
 - (a) Scale. The site plan must be drawn to a consistent scale of not less than one inch equals 50 feet for sites of three acres or less, or one inch equals 200 feet for larger sites.
 - (b) Identification. The applicant's name, address and telephone number and the name and address of the firm(s) responsible for preparation of the site plan must be included. If the applicant does not own the property, the owner must be identified and must sign a statement certifying that the applicant is acting in the owner's behalf.
 - (c) Property information. The site plan must accurately depict the subject property and land adjacent to and across any thoroughfare from it, including all existing and proposed easements or rights-of-way. Zoning of the site, and of adjacent properties, must be identified. A legal description and computation of the area of the property must accompany the site plan.
 - (d) Site features. The site plan should depict existing environmental conditions, including the location of wooded areas or isolated trees over six inches in diameter, topography, drainage features, wetlands, any existing structures, including those proposed for removal, and other significant conditions. The approximate location and use of structures and the location of the nearest driveways on adjacent or opposing parcels should be shown.
 - (e) Transportation features. The site plan must show the location and surface type of all existing and proposed public roads, access drives, internal vehicle circulation areas, parking lots (including number and location of handicapped parking spaces), sidewalks, loading areas or docks, truck bays, and refuse pickup stations. If the use includes a drive-through facility, stacking or queuing spaces shall be delineated on the submitted site plan.
 - (f) Utilities. The site plan must show the location and size of all existing and proposed public utilities. Waterline information shall include location of existing and proposed fire hydrants and valves. Sanitary sewer information shall include location of any pumping station and approximate location of manholes. Storm drainage information shall include any enclosed drains, flow restrictors and on-site retention. The site plan must also include any existing or proposed private utilities, such as natural gas, electricity, telephone and cable television.

- (g) Structures. The site plan must show the location and dimensions, including height, of all proposed buildings, accessory structure and related features. For multifamily housing developments, the number of units in each building must be identified. Schematic plans and elevations of all structures exceeding 5,000 square feet of total floor area must be included. The site plan should also show the location, arrangement, dimensions and type of proposed signs, lighting, landscaping, screening, fences, and decorative walls.
 - (h) Material board. The Zoning Administrator and/or the Planning Commission may require the submission of a board representing the actual materials which will be used in the construction of the proposed project. The materials board will become a part of the site plan approval and remain with the Township until the completion of the project in order to ensure compliance with the approved site plan.
 - (i) Supplementary material. The site plan shall be complemented by any additional information which, in the Zoning Administrator's discretion, is important for the site plan review process. This could include, but not be limited to, an assessment of the proposed project's impact on environmental, historic, social or economic conditions; traffic studies; or proposed measures to control or mitigate such impacts as noise, smoke, particulates, vibration, odors, or fire hazards.
- (3) Decision guidelines for site plan review. In order that buildings, open space and landscaping will be in harmony with other structures and improvements in the area, and to assure that no undesirable health, safety, noise and traffic conditions will result from the development, the Township Planning Commission shall determine whether the site plan meets the following criteria, unless the Township Planning Commission determines that one or more of the criteria are inapplicable:
- (a) The site plan shall comply with all requirements of the applicable zoning district and design guidelines, unless otherwise provided in this chapter.
 - (b) The site plan is consistent with the intent and purpose of this chapter and the intent of the district in which it is located.
 - (c) The vehicular transportation system shall provide for circulation throughout the site and for efficient ingress and egress to all parts of the site by fire and safety equipment.
 - (d) Recreation and open space areas shall be provided in all multiple-family developments.
 - (e) The site plan shall comply with the requirements for screening, fencing, walls and other protective barriers.
 - (f) Pedestrian walkways and/or pathways shall be provided as deemed necessary by the Township Planning Commission for separating pedestrian and vehicular traffic.

- (g) All elements of the site plan shall be harmoniously and efficiently organized in relation to topography, the size and type of the lot, the character of adjoining property and type and size of buildings. The site shall be so developed as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this chapter.
 - (h) If the applicant does not own the property, the owner must be identified and must sign a statement certifying that the applicant is acting in the owner's behalf.
- (4) Approval process. The site plan shall be reviewed by the Township Planning Commission and shall be approved, disapproved, approved with specific conditions, or tabled as may be deemed necessary to carry out the purpose of this chapter and other codes and regulations of the Township. If, during review, the Planning Commission finds a site plan not in conformance with the provisions set forth in this section, it may, at its discretion, return the site plan to the applicant with a written statement of the modifications necessary to secure approval.
- (a) Approval. Following approval of the site plan, it shall become part of the record, and subsequent actions relating to the activity authorized shall be consistent with the approved site plan unless a change or addition conforming to this chapter received the mutual agreement of the landowner and the Township Planning Commission or Zoning Administrator, as appropriate. Incidental and minor variations of the approved site plan with written approval of the Zoning Administrator shall not invalidate prior site plan approval.
 - (b) Approval with conditions. The Planning Commission may, in accordance with this chapter and the specific guidelines contained herein, approve the site plan with conditions. These conditions may include the provisions of buffers, fencing, screening or other such additional items intended to protect the health, public welfare and safety of the greater Township.
 - (c) Denial for specific requirements. In instances where specific dimensional or area requirements of this chapter are not satisfied on the site plan, requests for variance(s) may be initiated by the applicant to the Township Zoning Board of Appeals. Requirements not met are grounds for denial.
 - (d) Approved site plan. The approved site plan shall become part of the record of approval, and subsequent actions relating to the activity authorized shall be consistent with the approved site plan unless a change or addition conforming to this chapter receives the mutual agreement of the landowners and the Township Planning Commission or Zoning Administrator, as appropriate. Incidental and minor variations of the approved site plan with written approval of the Zoning Administrator and/or Building Inspector shall not invalidate prior site plan approval.
 - (e) Expiration. A site plan approved by the Planning Commission shall expire and be considered automatically revoked one year after the date of such approval unless actual construction has commenced and is

proceeding in accordance with the issuance of a valid building permit. If such construction activity ceases for any reason for a period of more than one year, any subsequent use of said land shall be subject to review and approval of a new site plan for said property in conformance with the provisions of this chapter, except that the Planning Commission may, at its discretion, upon application by the owner and for cause shown, provide for up to two successive twelve-month extensions.

§ 300-79. Public notice.

Public notification. All applications for development approval requiring a public hearing shall comply with the Zoning Enabling Act¹⁴ and the other provisions of this section with regard to public notification.

- A. Responsibility. When the provisions of this chapter or the Zoning Enabling Act require that notice be published, the Zoning Administrator shall be responsible for preparing the content of the notice, having it published in a newspaper of general circulation in Midland Charter Township and mailed or delivered as provided in this section.
- B. Content. All mail, personal and newspaper notices for public hearings shall:
- (1) Describe nature of the request. Identify whether the request is for a rezoning, text amendment, special land use, planned unit development, variance, appeal, ordinance interpretation or other purpose.
 - (2) Location. Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the subject property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used, such as a tax parcel identification number, identifying the nearest cross street, or including a map showing the location of the property. No street addresses must be listed when 11 or more adjacent properties are proposed for rezoning, or when the request is for an ordinance interpretation not involving a specific property.
 - (3) When and where the request will be considered. Indicate the date, time and place of the public hearing(s).
 - (4) Written comments. Include a statement describing when and where written comments will be received concerning the request. Include a statement that the public may appear at the public hearing in person or by counsel.
 - (5) Handicap access. Information concerning how handicap access will be accommodated if the meeting facility is not handicap accessible.
- C. Personal and mailed notice.
- (1) General. When the provision of this chapter or state law requires that personal or mailed notice be provided, notice shall be provided to:

14. Editor's Note: See MCLA § 125.3101 et seq.

- (a) The owners of property for which approval is being considered, and the applicant, if different than the owner(s) of the property.
 - (b) Except for rezoning requests involving 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 within 300 feet of the boundary of the property subject to the request, regardless of whether the property or occupant is located within the boundaries of Midland Charter Township. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations, one occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses or organizations, notice may be given to the manager or owner of the structure, who shall be requested to post the notice at the primary entrance to the structure. The applicant shall provide the Zoning Administrator with a list of such persons along with the application.
 - (c) All neighborhood organizations, public utility companies, railroads and other persons which have requested to receive notice pursuant to § 300-79D(2), Registration to receive notice by mail.
 - (d) Other governmental units or infrastructure agencies within one mile of the property involved in the application.
- (2) Notice by mail/affidavit. Notice shall be deemed mailed by its deposit in the United States mail, first class, properly addressed, postage paid. The Zoning Administrator shall prepare a list of property owners and registrants to whom notice was mailed, as well as of anyone to whom personal notice was delivered.
- D. Timing of notice. Unless otherwise provided in the Zoning Enabling Act, or this chapter where applicable, notice of a public hearing shall be provided as follows:
- (1) For a public hearing on an application for a rezoning, text amendment, special land use, planned unit development, variance, appeal, or ordinance interpretation, not less than 15 days before the date the application will be considered for approval.
 - (2) Registration to receive notice by mail:
 - (a) General. Any neighborhood organization, public utility company, railroad or any other person may register with the Zoning Administrator to receive written notice of all applications for development approval pursuant to § 300-79C(1)(b), or written notice of all applications for development approval within the zoning district in which they are located. The Zoning Administrator shall be responsible for providing this notification. Fees may be assessed for the provision of this notice, as

established by the legislative body.

- (b) Requirements. The requesting party must provide the Zoning Administrator information on an official form to ensure notification can be made. All registered persons must reregister biannually to continue to receive notification pursuant to this section.

§ 300-80. Planning Commission.

- A. Creation and membership. The Planning Commission shall be organized pursuant to Act 33 of 2008, the Planning Enabling Act (MCLA § 125.3801 et seq.), as amended, and shall have the duties and powers prescribed by that law, which include responsibility for the administrative and enforcement activities under this chapter, including: **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
 - (1) Site plan approval. The Planning Commission shall review site plans and issue its approval, conditional approval or denial of same as provided by § 300-78.
 - (2) Special use permits. The Planning Commission shall conduct a public hearing on any application for a special use permit. Following a public hearing, the Planning Commission shall review and approve or deny said application. The Planning Commission shall also take any necessary action to revoke a special use permit as provided by § 300-62C(7).
 - (3) Rezoning or amendments. The Planning Commission shall conduct public hearings for proposal to rezone property or amend the text of this chapter as provided by § 300-79. Following a public hearing, the Planning Commission shall make its recommendation regarding the proposed rezoning or text change to the Township Board. The Planning Commission may initiate a text change or rezoning, subject to the requirements for notice, hearing and Township Board approval.
 - (4) Planned unit developments. The Planning Commission shall conduct a public hearing on any application for a planned unit residential or commercial development, in accordance with the standards and procedures for special land use permits.
 - (5) Conditional rezoning. The Planning Commission shall process a request for conditional rezoning and a site plan review in accordance with §§ 300-80 and 300-81.
- B. Organization and procedures. The Planning Commission may adopt its own rules of procedures (or bylaws) as may be necessary to conduct its meetings and to carry out its functions. The bylaws shall address meeting times, officers, maintenance of records, conduct of hearings and manner of decision-making.
- C. Compensation. The Charter Township of Midland Board of Trustees shall establish the rate of compensation and/or reimbursement for officers and members of the Planning Commission for duties performed as Commissioners.
- D. Report to the Township Board. The Planning Commission shall at least once per

year prepare for the Township Board a report on the administration and enforcement of this chapter and recommendations for amendments or supplements to this chapter.

- E. Malfeasance. A member of the Planning Commission shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest constitutes malfeasance in office. The Charter Township of Midland Board of Trustees shall provide for the removal of a member of the Planning Commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after public hearing.

§ 300-81. Conditional rezoning.

Midland Charter Township will not require nor imply that conditional zoning or zoning agreements are a necessity or a condition for approval.

- A. A request for conditional zoning or a zoning agreement shall be submitted, in writing, to the Zoning Administrator, Chairman of the Township Planning Commission and the Township Supervisor. The request shall be required prior to any application for rezoning or appearance before the Planning Commission.
- B. Upon receipt of the request, the Zoning Administrator will prepare a memo to the Planning Commission and the Township Board detailing that a request has been received, from whom and the area proposed for rezoning. The applicant will receive a copy as well. The Zoning Administrator and the Township Supervisor will arrange for an informal meeting with the developer to discuss the specific request or requests.
- C. Informal review process.
 - (1) An informal meeting will be held with the Zoning Administrator and the Township Supervisor and Chairman of the Planning Commission and the proposed developer or developers.
 - (2) During the meeting, the developer should be prepared to provide the following information, in writing:
 - (a) The zoning district desired.
 - (b) The specific use proposed.
 - (c) A sketch of the proposed development (a hand sketch is fine; no full site plan is required at this point).
 - (d) Identification of particular items that might be necessary to mitigate the proposed rezoning and associated development.
 - (3) From this meeting, the Township will provide a follow-up letter to the developer and copied to the Planning Commission and Township Board which details the following:
 - (a) The proposed use of the parcel and the desired zoning district.

- (b) A discussion of all related zoning requirements included within the existing Zoning Ordinance.
 - (c) A discussion of potential items in addition to the typical zoning requirements, which may be necessary or desirable to mitigate the proposed rezoning, and associated development.
 - (d) A proposed time line for the process, identifying key dates for submittal, public hearings and tentative approval.
 - (e) An overview of the discussion, including any relative buffering or other such items which may be considered by the Planning Commission in terms of surrounding uses, intensity of surrounding uses and the purpose and intent of the zoning regulations and the adopted Master Plan and any other policy documents or guide so adopted by the Township.
- D. Formal review process.
- (1) Using the proposed time line as a guide, the developer or developers will submit all their required information, which for conditional zoning or zoning agreement shall be:
 - (a) A rough site plan done to such a level of detail that assures the basic arrangement of any structures and connection to required utilities.
 - (b) An elevation of the proposed structure.
 - (c) Conversely, if a developer so chooses, he or she may submit the full drawings and request a site plan approval concurrently.
 - (d) The rezoning request must be submitted in accordance with the Township's rezoning policy, which requires submission at least 30 days prior to the next regularly scheduled Planning Commission meeting.
 - * It is important to note that these items will be made part of the approval of the rezoning. Failure to complete the project as represented to the Township at this point may result in a loss of the status of the conditional zoning.
 - (2) All public notifications, reviews and hearings will be scheduled and advertised as set forth in this chapter and as typically practiced in the Township for the rezoning of land. If the proposed use requires a special land use permit, the special land use permit and hearing may be conducted concurrently if the site plans and appropriate documentation are provided.
 - (3) The Township Attorney will draft a zoning agreement for execution by the Township and the developer.
 - (4) Any and all conditions imposed as part of the conditional zoning or zoning agreement process and proposed approval must meet the following criteria:
 - (a) Conditions such as building appearance, landscaping, setbacks in an amount more than what is required; additional screening requirements, etc., shall be directly related to the proposed project and serve to mitigate

any potentially deleterious effects on surrounding property owners or properties in general.

- (b) Conditions serving as additional performance standards, including but not limited to lighting, noise, traffic, etc., shall be directly related to the proposed project and development and should serve to mitigate any potentially deleterious effects on surrounding properties, the road network, and the general area.
- (c) Conditions limiting the specific use of the property are permitted; however, the Planning Commission and Township Board should be mindful of being too specific. For example, limiting a use to a professional office may prevent the parcel from being used for something similar in intensity yet different, such as a day-care center or commercial or private school. Care should be taken to be specific in terms of standards and intensity and more flexible in terms of naming specific uses.
- (d) The Planning Commission will forward its recommendations to the Township Board for consideration.
- (5) If the Planning Commission recommends, and the Township Board approves, a conditional zoning or zoning agreement request, the zoning designation will be noted on the Zoning Map as an overlay and the zoning will be referenced as a footnote on the map itself. The footnote will refer to the actual zoning case and the zoning approval and specific conditions.
- (6) A final zoning agreement, drafted and reviewed by the Township Attorney, will be executed. The developer shall be responsible for all costs associated with the drafting and executing of the zoning agreement. These costs shall be passed through from the Township Attorney.
- (7) The developer, the Chairman of the Planning Commission and the Township Clerk shall all sign the submitted documentation. A copy will be returned to the developer and the original shall stay with the Township.
- (8) A copy will be recorded at the Register of Deeds.

E. Enforcement.

- (1) By approving the conditional zoning or zoning agreement, the Township grants rezoning and then, subsequently or concurrently, site plan approval. The specific conditions imposed and agreed to by the Developer and the Township become part of the approval.
- (2) Should the developer not meet the conditions as specified, they will be considered in violation of this chapter and will be pursued as such.
- (3) Any change to the conditions shall require a rezoning.
- (4) Should the developer not complete the proposed project within 18 months, the property shall revert to the previous zoning classification.

- (5) Should the developer abandon the specific use and it is vacant and/or abandoned for a period of 18 months, the parcel shall convert to its previous zoning classification.
- (6) A property that reverts from conditional zoning will be considered a nonconforming use and subject to all applicable zoning regulations.
- (7) Reversion of the subject property shall require:
 - (a) The original developer, the current property owner (if different) and the occupant(s) of the property to be notified of the pending reversion by registered mail by the Township Clerk. The Township Board and Planning Commission shall receive the same notice. The notice will provide a thirty-day period for which the developer/owner can seek an extension of the time frame or begin construction.

**§ 300-82. Enforcement; violations and penalties; abatement of nuisances.
[Amended 10-10-2015 by Ord. No. 99]**

The Zoning Administrator, Building Inspector and/or Ordinance Enforcement Officer shall enforce the provisions of this chapter.

- A. Any person or other entity who violates any provision of this chapter is responsible for a municipal civil infraction as defined by Michigan law and subject to a civil fine of not more than \$500, plus costs. Those costs may include all expenses, direct or indirect, to which the Township has been put in connection with the municipal civil infraction; not more than \$500. The owner, resident or occupant in control of a premises upon which a violation of this chapter occurs is responsible for the violation to the same extent as the person(s) who conduct the activity giving rise to the violation. Each day a violation of this chapter continues to exist constitutes a separate violation.
- B. In addition, all violations of this chapter are declared a nuisance per se. The Township specifically reserves the right and shall have the authority to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order or other appropriate remedy to abate said nuisance and compel compliance with this chapter.

§ 300-83. Amendment.

- A. The Charter Township of Midland Board of Trustees may amend the regulations and provisions stated in the text of this chapter, and the boundaries of zoning districts shown on the Zoning District Map may be amended, supplemented or changed by ordinance by the Charter Township of Midland Board of Trustees in accordance with applicable zoning enabling legislation of the state.
- B. Initiation of amendments. Proposals for amendments, supplements or changes may be initiated by the Charter Township of Midland Board of Trustees, by the Planning Commission or by petition of one or more owners, option holders or their agents of property to be affected by the proposed amendment.
- C. Amendment procedures.

- (1) Petition to Township Board. Each petition by one or more owners, or their agents, for an amendment shall be submitted upon an application of standard form to the Township Clerk. A fee as established by the Charter Township of Midland Board of Trustees shall be paid at the time of application to cover costs of necessary advertising, for public hearings and investigation of the amendment request. The Clerk shall transmit the application to the Planning Commission for recommended action.
- (2) Recommendation. The Planning Commission shall consider each proposal for amendment in terms of its own judgment on particular factors related to the individual proposal and in terms of the likely effect of such proposal upon the Land Use Plan for the community. The Planning Commission may recommend any additional or modifications to the original amendment petition to the Township Board of Trustees.
- (3) Public hearing. After deliberation on any proposal the Planning Commission shall conduct a public hearing as provided by § 300-79.
- (4) County Planning Commission. Following the conclusion of the public hearing, the Township Planning Commission shall submit the proposed amendments, on a form furnished by the Midland County Planning Commission, including any zoning district map, to the County Planning Commission for its review. The approval of the Midland County Planning Commission shall be conclusively presumed unless such Commission, within 30 days of its receipt, has notified the Township Board of Trustees of its disapproval or approval.
- (5) Charter Township of Midland Board of Trustees.
 - (a) Upon receipt of the Township Planning Commission's, together with the County Planning Commission's, recommendation, the Charter Township of Midland Board of Trustees shall review said recommendations. If the Board of Trustees deems that any amendments, changes, additions, or departures are advisable as to the proposed ordinance amendment as recommended by the Township Planning Commission, it shall refer the same to the Planning Commission for a report thereon within a time specified by the Board of Trustees. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
 - (b) After receiving the proposed amendment recommendations heretofore specified, the Charter Township of Midland Board of Trustees shall conduct a public hearing on the proposed amendment and may request the Township Planning Commission to attend such hearing. Thereafter, the Board of Trustees may deny or adopt the amendment with or without any changes.
- (6) Resubmitted. No application for a rezoning which has been denied by the Charter Township of Midland Board of Trustees shall be resubmitted for a period of one year from the date of the last denial, except on the grounds of newly discovered evidence or proof of changed conditions found upon inspection by the Board of Trustees to be valid.
- (7) Fees. A fee as established by the Board of Trustees shall be paid to the

Township Clerk or Building Inspector and/or Zoning Administrator at the time of requesting a zoning amendment. The purpose of the fee is to cover, in part, the necessary advertisements, investigations and other expenses incurred by the Township in connection with the requested amendment.¹⁵

§ 300-84. Temporary permit for temporary dwelling.

A. Temporary permits for a mobile home/trailer coach. A temporary permit for parking a mobile home/trailer coach during construction of a home, commercial building, industrial building or structure and not located in a licensed mobile home park will be subject to the following procedures and limitations:

- (1) An application for a temporary permit for the erection or movement of a temporary structure for dwelling purposes, including mobile home/trailer coaches, shall be made to the Building Inspector and/or Zoning Administrator on a special form used exclusively for that purpose.
 - (a) The temporary permit issued shall clearly set forth the conditions under which the permit is granted and shall state that the proposed temporary dwelling structure is to be vacated upon expiration of the building permit, not to exceed 12 months. No permit shall be transferable to any other owner or occupant. The temporary permit may be renewed for a period not to exceed one year at the discretion of the Building Inspector and/or Zoning Administrator; a reason may be that adequate progress has been made to the structure and additional time is required to complete the project.

§ 300-85. Zoning Board of Appeals.

A. Procedures.

- (1) Hearings. When notice of appeal has been filed in proper form with the Zoning Board of Appeals, the Board shall immediately place the said request for appeal on the calendar for hearing, and shall cause notices stating the time, place and object of the hearing to be served as specified in § 300-79. Any person may appear and testify at the hearing, from time to time, and if the time and place of the continued hearing be publicly announced at the time of adjournment of the Zoning Board of Appeals hearing, no further notice shall be required.
- (2) Decisions. The Zoning Board of Appeals shall return a decision upon each case within 30 days after a formal application for an appeal or request for a variance has been filed, unless a further time is agreed upon with the parties concerned. Any decision of the Zoning Board of Appeals shall not become final until the expiration of five days from the date of entry of such order, unless the Zoning Board of Appeals shall find immediate execution of such order is necessary for the preservation of property or personal rights and shall so certify on the record.

15. Editor's Note: Original Section 1410, Conditional rezoning request, which immediately followed this subsection, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I). See § 300-81, Conditional rezoning.

- (3) Majority vote. The concurring vote of a majority of the members of the Zoning Board of Appeals shall be necessary to reverse any order, requirements, decision or determination of the Zoning Administrator to decide in favor of the applicant on any matter upon which it is required to pass under this chapter or to effect any variation in this chapter.

B. Appeals. Appeals to the Appeals Board.

- (1) A demand for a zoning appeal is received by the Zoning Administrator.
- (2) Appeals can be filed by a person aggrieved, or an officer, department, board, or bureau of the state or local unit of government.
- (3) The Appeals Board shall have the authority to hear appeals concerning:
 - (a) All questions that arise in the administration of this chapter, including interpretation of the Zoning Map.
 - (b) All administrative orders, requirements, decision or determination made by an administrative official or body charged with enforcement of this chapter.
 - (c) All decisions of the Zoning Administrator.
 - (d) All decisions concerning site plan review.
- (4) Upon receipt of a demand for appeal, the Administrator will review the demand for appeal to ensure it is complete and the fee is paid.
- (5) If the application is not complete, the Administrator will return the application to the applicant with a letter that specifies the additional material required.
- (6) If the application is complete, the Administrator and Chairman of the Appeals Board shall establish a date to hold a hearing on the appeal.
- (7) The appeal stays all proceedings in furtherance of the action appealed, unless the body or officer from whom the appeal is taken certifies to the Zoning Board of Appeals that by reason of facts stated in the certificate, a stay would, in the opinion of the body or officer, cause imminent peril of life or property, in which case proceedings may be stayed by a restraining order issued by the Zoning Board of Appeals or a Circuit Court.
- (8) The notices shall be given in accordance with § 300-79 of this chapter.
- (9) The Appeals Board shall hold a hearing on the demand for appeal.
 - (a) Representation at hearing. Upon the hearing, any party or parties may appear in person or by agent or by attorney.
 - (b) Standards for variance decisions by the Appeals Board. The Appeals Board shall base its decision on variances from the strict requirements of this chapter so that the spirit of this chapter is observed, public safety secured, and substantial justice done based on the following standards:

[1] For dimensional variances. A dimensional variance may be granted

by the Zoning Board of Appeals only in cases where the applicant demonstrates in the official record of the public hearing that practical difficulty exists by showing all of the following:

- [a] That the need for the requested variance is due to unique circumstances or physical conditions of the property involved, such as narrowness, shallowness, shape, water, or topography, and is not due to the applicant's personal or economic difficulty.
 - [b] That the need for the requested variance is not the result of actions of the property owners or previous property owners (self-created).
 - [c] That strict compliance with regulations governing area, setback, frontage, height, bulk, density or other dimensional requirements will unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome.
 - [d] That the requested variance is the minimum variance necessary to do substantial justice to the applicant as well as to other property owners in the district.
 - [e] That the requested variance will not cause an adverse impact on surrounding property, property values, or the use and enjoyment of property in the neighborhood or zoning district.
- [2] For use variances. Under no circumstances shall the Appeals Board grant a variance to allow a use not permissible under the terms of this chapter in the district involved, or any use expressly or by implication prohibited by the terms of this chapter in said district.
- (10) If the demand for appeal is for a variance, the Appeals Board shall either grant, grant with conditions, or deny the application. The Appeals Board may reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination and may issue or direct the issuance of a permit. A majority vote of the membership of the Appeals Board is necessary to grant a dimensional variance and rule on an interpretation of this chapter. The decision shall be in writing and reflect the reasons for the decision.
- (a) At a minimum, the record of the decision shall include:
 - [1] Formal determination of the facts.
 - [2] The conclusions derived from the facts (reasons for the decision)
 - [3] The decision.
 - (b) Within eight days of the decision, the record of the decision shall be certified and a copy delivered by first class mail to the person demanding the appeal, the administrator, and other parties.
- (11) Any person having an interest aggrieved by such decision shall have a right to

appeal to Circuit Court within 30 days of the certified decision of the Appeals Board, as provided by law.

- C. Fees. A fee as established by the Township Board of Trustees shall be paid to the Zoning Administrator and/or the Building Inspector at the time of filing application with the Zoning Board of Appeals. The purpose of such fee is to cover, in part, the necessary advertisements, investigations, and other expenses incurred by the Zoning Board of Appeals in connection with the appeal.
- D. Membership.
- (1) Membership of the Zoning Board of Appeals shall not be comprised of fewer than three members.
 - (a) One of the regular members of the Zoning Board of Appeals shall be a member of the Planning Commission.
 - (b) The remaining regular members, and any alternate members, shall be selected from the electors of Midland Charter Township. The members selected shall be representative of the population distribution and of the various interests present in Midland Charter Township.
 - (c) One regular member may be a member of the Township Board, but shall not serve as Chairperson of the Zoning Board of Appeals.
 - (d) An employee or contractor of the Township Board may not serve as a member of the Zoning Board of Appeals.
 - (2) The Township Board may appoint not more than two alternate members for the same term as regular members to the Zoning Board of Appeals. An alternate member may be called as specified to serve as a member of the Zoning Board of Appeals in the absence of a regular member if the regular member will be unable to attend one or more meetings. An alternate member may also be called to serve as a member for the purpose of reaching a decision on a case in which the member has abstained for reasons of conflict of interest. The alternate member appointed shall serve in the case until a final decision is made. The alternate member has the same voting rights as a regular member of the Zoning Board of Appeals.
- E. Meetings.
- (1) Meetings of the Zoning Board of Appeals shall be held at the call of the Chairperson and at other times as the Zoning Board of Appeals in its rules of procedure may specify. The Chairperson or, in his or her absence, the Acting Chairperson may administer oaths and compel the attendance of witnesses.
 - (2) The Zoning Board of Appeals shall maintain a record of its proceedings, which shall be filed in the office of the Township Clerk.
- F. Purpose and procedures.
- (1) The Zoning Board of Appeals shall hear and decide questions that arise in the administration of this chapter, including the interpretation of the Zoning Maps,

and may adopt rules to govern its procedures sitting as a Zoning Board of Appeals. The Zoning Board of Appeals shall also hear and decide on matters referred to the Zoning Board of Appeals or upon which the Zoning Board of Appeals is required to pass under a zoning ordinance adopted under this act. It shall hear and decide appeals from and review any administrative order, requirement, decision, or determination made by an administrative official or body charged with enforcement of this chapter, including reviews for special land use and planned unit development decisions.

- (2) The concurring vote of a majority of the members of the Zoning Board of Appeals is necessary to reverse an order, requirement, decision, or determination of the Zoning Administrator and/or the Building Inspector, to decide in favor of the applicant on a matter upon which the Zoning Board of Appeals is required to pass under this chapter, or to grant a variance in this chapter.
- G. Malfeasance. A member of the Zoning Board of Appeals shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest constitutes malfeasance in office. The Charter Township of Midland Board of Trustees shall provide for the removal of a member of the Zoning Board of Appeals for misfeasance, malfeasance, or nonfeasance in office upon written charges and after public hearing.