

**ARTICLE I  
TITLE AND PURPOSE**

**SECTION 1.01        SHORT TITLE**

The Ordinance shall be known as the “Fruitland Township Zoning Ordinance.”

**SECTION 1.02        PURPOSE**

The purpose of this Ordinance is to:

- A.     promote and safeguard the public health, safety, morals, prosperity and general welfare of the people;
- B.     encourage the use of lands, waters and other natural resources in the Township in accordance with their character and most suitable use;
- C.     to limit the improper use of land and resources;
- D.     to provide reasonable terms under which the lawful use of nonconforming buildings, structures and land may be continued;
- E.     to limit hazards to life and property;
- F.     to provide for orderly development within the Township;
- G.     to avoid overcrowding of the population;
- H.     to provide for adequate light, air and health conditions in dwellings and buildings hereafter erected or altered;
- I.     to lessen congestion on the public roads and streets;
- J.     to protect and preserve the natural features and views of our lands and waters;
- K.     to facilitate the establishment of an adequate and economic system of transportation, sewage disposal, safe water supply, education, recreation and other public requirements;
- L.     to conserve the expenditure of funds for public improvements and services to conform with the most advantageous uses of land, resources and properties.

**SECTION 1.03        THE EFFECT OF ZONING**

- A.     For the purpose of this Ordinance, except as hereafter specifically provided, no lot, land or premises shall be used, maintained or occupied, and no building or structure or part thereof shall be constructed, erected, moved, placed, maintained reconstructed, used, extended, enlarged or altered, except in conformity with the regulations for the Zoning District in which it is located; these limitations being the minimum legislation necessary to promote and protect the general safety and welfare of the community.
- B.     In case any land, building, structure, or part thereof is used, erected, altered or occupied contrary to Law or to the provisions of this Ordinance, such use of land, building or structure shall be unlawful and shall be declared a nuisance and such use of land may be required to cease and buildings or structures may be required to be vacated, torn down, or abated by any legal means and such land, building, or structure shall not be used or occupied until brought into conformance.

- C. If construction on a building or structure is lawfully begun prior to adoption of this Ordinance, nothing in this Ordinance shall be deemed to require any change in the planned or designed use of any such building, provided that actual construction is being diligently carried on, and further provided that such building shall be entirely completed for its planned or designed use within two (2) years from the effective date of this Ordinance.

**SECTION 1.04            LEGAL BASIS**

This Ordinance was enacted pursuant to Act 184 of 1943 of the Public Acts of Michigan, as amended (Township Zoning Act, MCL 125.271, et seq). The continued administration of this ordinance, amendments to the Ordinance and all other matters concerning operation of this Ordinance shall be done pursuant to Act 110 of 2006 of the Public Acts of Michigan, as amended (Michigan Zoning Enabling Act, MCL 125.3101, et seq), referred to herein as the Zoning Act.

## **ARTICLE II DEFINITIONS**

### **SECTION 2.01        RULES APPLYING TO TEXT**

- A.     If any portion of this Ordinance or the application thereof to any person or circumstances shall be found to be invalid by a court, such invalidity shall not affect the remaining portions or applications of the portion which can be given effect without the invalid portion or application. Providing such remaining portions are not determined by the court to be inoperable, and to this end all portions of this Ordinance are declared to be severable.
  
- B.     If the meaning of this Ordinance is unclear in a particular circumstance, then the body charged with interpreting or applying the Ordinance shall construe the provision to carry out the intent of the Ordinance if such intent can be discerned from other provisions of the Ordinance or law.
  
- C.     The word “shall” is always mandatory and not discretionary. The word “may” is permissive.
  
- D.     All words and phrases shall be construed and understood according to the common preferred usage of the language; but technical words and phrases and such, as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning.
  
- E.     Words used in the present tense shall include the future; and words used in the singular number shall include the plural; and the plural the singular, unless the context clearly indicates the contrary.
  
- F.     A “building” or “structure” includes any part thereof.
  
- G.     The word “person” includes an individual, a corporation, a partnership, and incorporated association, a trust, a custodian, an estate, a governmental unit, limited liability company, or any other similar activity.
  
- H.     Unless the context clearly indicates the contrary, the conjunctions noted below shall be interpreted as follows:
  - 1.        “And” indicates that all connected items, conditions, provisions or events shall apply.
  - 2.        “Or” indicates that the connected items, conditions, provisions or events may apply singularly or in any combination.
  - 3.        “Either or” indicates that the connected items, conditions, provisions or events shall apply singularly but not in combination.
  
- I.     In computing the number of days, the first day is excluded and the last day is included. If the last day of any period during which an application, filing, or request is required to be made to the Township or other governmental agency is a Saturday, Sunday or legal holiday, the period is extended to include the next day which is not a Saturday, Sunday or legal holiday.

- J. The following dimensions must be perpendicular measurements: lot, street and easement widths; front, side and rear setback lot lines; distances from the ordinary high-water mark, bluff line, high risk erosion areas, and the like.

## **SECTION 2.02 DEFINITIONS – A**

### **ACCESSORY BUILDING**

A building or portion of a building subordinate to a main building on the same lot occupied by or devoted exclusively to an accessory use. An independent structure, either temporary or permanent, having a roof supported by columns, walls, or any other support used for the housing or storage of persons, animals or property, or carrying on business activities. When an accessory building is attached to a main building in a substantial manner, such as a common wall or roof, enclosed breezeway, or a covered colonnade, the accessory building shall be deemed to have been integrated into the main building and no longer considered an accessory building.

### **ACCESSORY USE**

A use customary, incidental and subordinate to, and devoted exclusively to the principal use of the land or main building.

### **ACCESSORY VEHICLE**

See “RECREATIONAL VEHICLE OR EQUIPMENT”

### **ADULT USES**

The term shall include adult book stores, adult cabarets, adult motion picture theaters, massage establishments, and nude studios. These terms shall have the following meanings:

#### **A. ADULT BOOK STORE**

An establishment having as a substantial or significant portion of its stock in trade, books, magazines, and other printed materials characterized by their emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas”, as defined herein, or an establishment with a segment or section devoted to the sale or display of such material.

#### **B. ADULT CABARET**

An establishment including, but not limited to, a café, restaurant or bar which features go-go dancers, erotic dancers, strippers, male or female impersonators, or similar entertainers.

#### **C. ADULT THEATER**

An establishment used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas,” as defined herein, for observation by patrons therein.

D. MESSAGE ESTABLISHMENT

Any establishment where massages are administered for pay, including but not limited to massage parlors, health clubs, sauna baths, and steam baths. This definition shall not be construed to include a hospital, nursing home, medical clinic, or the office of a physician, surgeon, chiropractor, osteopath, or physical therapist duly licensed by the State of Michigan, or massages administered by persons certified by the American Massage Therapy Association or a graduate of a School of Massage that is certified by the State of Michigan, or to barber shops or beauty salons in which massages are administered only to the scalp, the face, the neck or the shoulder. This definition shall not be construed to include a non-profit organization operating a community center, swimming pool, tennis court, or other educational, cultural, recreational, and athletic facilities for the welfare of the residents of the area. A *Massage* is defined as a method of treating the external parts of the human body by rubbing, stroking, kneading, tapping or vibrating with the hand or any instrument.

E. NUDE STUDIO

Any establishment which offers the providing of models to display “specified anatomical areas” as described herein.

Specified Anatomical Areas

Specified anatomical areas are defined as:

1. Less than completely and opaquely covered human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola;
2. Human male genitals in a discernible turgid state even if completely and opaquely covered.

Specified Sexual Activities

Specified sexual activities are defined as:

1. Human genitals in a state of sexual stimulation or arousal;
2. Acts of human masturbation, sexual intercourse or sodomy;
3. Fondling or other erotic touching of human genital, pubic region, buttock or female breast.

AGRICULTURE USES

“Agricultural use” means the land and buildings used in the production of plants and animals useful to humans, including forages and sod crops; grains, feed crops, and field crops; dairy and dairy products; poultry and poultry products; livestock, including breeding and grazing of cattle, swine, captive cervidae, and similar animals; berries; herbs; flowers; seeds; grasses; nursery stock; fruits; vegetables; Christmas trees; and other similar uses and activities. Agricultural use includes use in a federal acreage set-aside program or a federal conservation reserve program. “Agricultural use” means 1 or more of the following:

- A. A farm of 40 or more acres in 1 ownership, with 51% or more of the land area devoted to an agricultural use.

- B. A farm of 5 acres or more in 1 ownership, but less than 40 acres, with 51% or more of the land area devoted to an agricultural use that has produced a gross annual income from agriculture of \$200.00 per year or more per acre of cleared and tillable land. A farm described in this subparagraph enrolled in a federal acreage set aside program or a federal conservation reserve program is considered to have produced a gross annual income from agriculture of \$200.00 per year or more per acre of cleared and tillable land.
- C. A farm of any size designated by the department of agriculture as a specialty farm in single ownership that has produced a gross annual income from an agricultural use of \$2,000.00 or more. Specialty farms include, but are not limited to, greenhouses; equine and grazing; the breeding and grazing of cervidae, pheasants, and other game animals; bees and bee products; mushrooms; aqua-culture; and other similar uses and activities.

Agricultural use does not include the management and harvesting of a woodlot.

#### ALTERATIONS

Any change, addition or modification in construction or type of use of occupancy; any change in the supporting structural members of a building, such as walls, partitions, columns, beams or girders. After such change, addition or modification, the building or use may be referred to herein as “altered” or “reconstructed”.

#### ARCHITECTURAL FEATURES

Architectural features of a building shall include cornices, eaves, gutters, belt courses, sills, lintels, bay windows, chimneys and decorative ornaments.

#### AREA OF SPECIAL FLOOD HAZARD

Is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year?

### **SECTION 2.03            DEFINITIONS – B**

#### BASE FLOOD

Means the flood having a one percent chance of being equaled or exceeded in any given year.

#### BASEMENT OR CELLAR

A portion of a building having more than one-half (1/2) of its height below grade.

#### BED AND BREAKFAST

A single-family dwelling in which transient guests are provided a sleeping room, breakfast and access to bathing and lavatory facilities in return for payment.

#### BERM

A man-made, formed earthen mound of definite height and width used for obscuring purposes; the purpose of which is to provide a transition between uses of differing intensity.

**BLUFF LINE**

The edge or crest of the elevated segment of the shoreline above the beach or beach terrace.

**BOARD OF APPEALS, or “ZBA”**

As used in this Ordinance, this term means the Fruitland Township Zoning Board of Appeals.

**BOARD, TOWNSHIP**

As used in the Ordinance, this term means the Fruitland Township Board of Trustees.

**BUILDABLE AREA**

The space remaining within a lot after the minimum setback and open space requirements of this Ordinance have been met.

**BUILDING**

An independent structure, either temporary or permanent, having a roof supported by columns, walls, or any other support used for the housing or storage of persons, animals or property, or carrying on business activities. When any portion thereof is completely separated from every part thereof by division of walls from the ground up, and without openings, each portion of such building shall be deemed a separate building.

**BUILDING CODE**

Construction standards currently adopted by Fruitland Township.

**BUILDING HEIGHT**

See Development Standards in each Zoning District.

**BUILDING, MAIN**

A building in which is conducted the principal use of the lot on which it is situated.

**BUILDING PERMIT**

Written authorization issued by the Building Inspector on behalf of the Township permitting the construction, moving, alteration of a building or structure or excavation, in conformity with the provisions of this Ordinance and the Township’s building code.

**SECTION 2.04           DEFINTIONS – C**

**CERVIDAE FACILITIES**

“Cervidae facility” means a privately owned cervidae livestock operation on privately controlled lands capable of holding cervidae species, being members of the cervidae family including, but not limited to, deer, elk, moose, reindeer, and caribou.

## CLINIC

A building or group of buildings where human patients are admitted for examination and treatment by more than one (1) professional, such as physician, dentist, or the like, except that human patients are not lodged therein overnight.

## COMMERCIAL

This term relates to the use of property in connection with the lodging of transient guests for profit for a rental fee or the purchase, sale, lease, barter, display or exchange of goods, wares, merchandise or personal services or that is used in commerce or the maintenance of service offices or recreation or amusement enterprise or garage/basement/yard sales operating more than six (6) days during any one (1) twelve (12) month period and designed to make a profit. Any rental of a dwelling for a fee if less than 30 consecutive days is a commercial use.

## COMMISSION, PLANNING

As used in this Ordinance, this term means the Fruitland Township Planning Commission.

## COMMON OWNERSHIP

Common ownership means ownership by the same person, the person's spouse or any other legal entity holding any ownership interest.

## **SECTION 2.05            DEFINITIONS – D**

### DAY CARE, COMMERCIAL

A facility, other than a private dwelling, that receives for more than fourteen (14) days in consecutive twelve (12) months minor children or adults for care for periods less than 24 hours in a day. Child care and supervision provided as an accessory use, while persons responsible for their care are engaged or involved in the principal use of the property, such as a nursery operated during church services or public meetings, or by a fitness center or similar operation, shall not be considered Commercial Day Care.

### DAY CARE, PRIVATE HOMES

#### A.     FAMILY CHILD CARE HOME

A childcare home means a private home in which one (1) but fewer than eight (8) minor children are received for care and supervision for compensation for periods of less than twenty-four (24) hours a day, unattended by a parent or legal guardian, except children related to an adult member of the household by blood, marriage or adoption. Family child care home includes a home in which care is given to an unrelated minor child for more than four weeks during a calendar year. A family child care home does not include an individual providing babysitting services for another individual. As used in this subparagraph, "providing babysitting services" means caring for a child on behalf of the child's parent or guardian when the annual compensation for providing those services does not equal or exceed \$600.00 or an amount that would according to the internal



revenue code of 1986 obligate the child's parent or guardian to provide a form 1099-MISC to the individual for compensation paid during the calendar year for those services. Family child care home includes a private home with increased capacity.

According to the Michigan Zoning Enabling Act 110 of 2006, MCL 125.3206, a family child care home is considered a residential use of property for the purposes of zoning and a permitted use in all residential zones and is not subject to a special use or conditional use permit or procedure different from those required for other dwellings of similar density in the same zone.

#### B. GROUP CHILD CARE HOME

Means a private home in which more than six (6) but not more than fourteen (14) minor children are given care and supervision for periods of less than twenty-four (24) hours a day unattended by a parent or legal guardian, except children related to an adult member of the household by blood, marriage or adoption. Group child care home includes a home in which care is given to an unrelated minor child for more than four weeks during a calendar year. Group child care home includes a private home with increased capacity.

According to the Michigan Zoning Enabling Act 110 of 2006, MCL 125.3206, a group child care home shall be issued a special use permit, conditional use permit, or other similar permit if the group child care home meets all requirements.

#### C. INCREASED CAPACITY

Means 1 additional child added to the total number of minor children received for care and supervision in a family child care home or 2 additional children added to the total number of minor children received for care and supervision in a group child care home.

In the event the Michigan Legislature choose to expand or reduce the number of minor children received for care and supervision in a family child care home or in a group child care home, those expansions or reductions shall be deemed to automatically apply to the definition of "family child care home" or "group child care home", as defined above.

#### DEVELOPMENT

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

#### DISTRICT, ZONING

A geographical area of the Township within which certain uses of land and/or buildings are permitted.

#### DRIVE-IN ESTABLISHMENT

A commercial facility whose retail/service is provided through service windows or facilities in order to serve patrons while in or momentarily stepped away from the vehicle. Examples include banks, cleaners, and restaurants, but not vehicle service stations.

## DWELLING UNIT

A building providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and bathroom facilities.

## DWELLING, MULTIPLE FAMILY

A building or portion thereof, used or designed for use as three (3) or more dwelling units.

## DWELLING, SINGLE FAMILY

A building used or designed for use exclusively as a dwelling unit by one (1) family.

## DWELLING, TWO-FAMILY

A building or portion thereof, used or designed for use as two (2) dwelling units. It may also be termed a duplex.

## **SECTION 2.06            DEFINITIONS – E**

### ERECTED

The word “erected” includes built, constructed, reconstructed, move upon, or any physical operations on the premises required for the building. Excavations, fill, drainage and the like, shall be considered a part of the term “erect”.

### ESSENTIAL SERVICES

Underground, surface, or overhead gas, electrical, steam, or water transmission or distribution systems, collection, communication supply or disposal systems, including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, traffic signals, hydrants, towers, poles, and other similar equipment and accessories in connection therewith reasonably necessary for the furnishing of adequate service by such public utilities or municipal departments or commissions or for the public health or general welfare, but not including buildings other than such buildings as are primarily enclosures or shelters of the above essential service equipment. Wireless Communications Equipment, Wireless Communications Support Structures, wind energy systems and met towers shall not be considered essential services.

### EXCAVATING

Any breaking of ground, except common household gardening, agricultural uses and grounds care.

## **SECTION 2.07            DEFINITIONS – F**

### FAMILY

- A. An individual or group of two (2) or more persons related by blood, marriage, or adoption, together with foster children and servants of the principal occupants who are domiciled together as a single housekeeping unit in a dwelling unit; or

- B. A collective number of individuals domiciled together in one (1) dwelling unit whose relationship is of a continuing, non-transient domestic character and who are cooking and living as a single non-commercial housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, half-way house, lodge, coterie, organization, group of students, or other individuals whose domestic relationship is of a transitory or seasonal nature, is for an anticipated limited duration of a school term or during a period of rehabilitation or treatment, or is otherwise not intended to be of a permanent nature.

#### FENCE

A barrier, partition, wall, structure or gate erected as a dividing structure, barrier or enclosure.

#### FENCE DESIGN & TYPE

Decorative: a designed open or solid fence or wall that contributes to the identification and beauty of the principal use; is not erected to satisfy and other provision, and does not act as a retaining structure.

#### FILL/FILLING

The depositing or dumping of any matter into or onto the ground except common household gardening and general maintenance.

#### FINANCIAL GUARANTEE OF PERFORMANCE

When a financial guarantee of performance may be required under the terms of this Ordinance, the Township may require a cash deposit, certified check, letter of credit, bond or other similar type of financial guarantee acceptable to the Township to insure compliance with applicable provisions of the Ordinance. The financial guarantee shall be deposited with the Township Clerk at the time any permits or other approval authorizing the project or activity which requires the financial guarantee are issued. As work progresses, the Township may authorize a proportional rebate of the financial guarantee upon the completion of significant phases of the project.

#### FLOOD or FLOODING

Means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters or the unusual and rapid accumulation or runoff of surface waters from any source.

#### FLOOD HAZARD BOUNDARY MAP

Means an official map of a community issued by the Federal Insurance Administration, where the boundaries of the areas of special flood hazards have been designated as Zone A.

#### FLOOD INSURANCE RATE MAP (FIRM)

Means an official map of a community on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

## FLOOD INSURANCE STUDY

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

## FLOOD HAZARD AREA

Means land, which on the basis of available floodplain information is subject to a one-percent or greater chance of flooding in any given year.

## FLOOD PLAIN

Means any land area susceptible to being inundated by water from any source (see definition of flood).

## FLOODWAY

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

## FLOOR AREA, GROSS (GFA)

The sum of the gross horizontal area of the floors of a building measured from the exterior faces of the exterior walls or from the center line of walls separating two (2) buildings. The gross floor area of a building shall not include the basement floor area. (See Basement)

Gross floor area shall not include attic space having headroom of less than seven and one-half (7 ½) feet, or interior balconies or mezzanines. Any space devoted to parking or loading shall not be included in floor area. Areas of basements, porches, or attached garages are not included.

## FLOOR AREA, USABLE (UFA)

That area used for or intended to be used for the sale of merchandise or services, or for use to serve patrons, clients, or customers; or area used in a dwelling unit for living purposes. Floor area which is used for or intended to be used principally for the storage or processing of merchandise, for hallways, or for utilities shall be excluded for the computation of usable floor area. Measurement of usable floor area shall be the sum of the horizontal areas of the several floors of the building measured from the interior faces of the exterior walls.

## FOREDUNE

One or more low linear dune ridges that are parallel and adjacent to the shoreline of a Great Lake and are rarely greater than twenty (20) feet in height. The lakeward face of a foredune is often gently sloping and may be vegetated with dune grasses and low shrub vegetation or may have an exposed sand face.

## FRONTAGE (See Lot Width)

## **SECTION 2.08            DEFINITIONS – G**

### **GARAGE**

A building used primarily for the storage of vehicles for the use of the occupants of a lot on which such building is located.

### **GRADE**

The average finished grade elevation established for the purpose of regulating the number of stories and the height of buildings. The grade shall be the level of the original ground adjacent to the walls of the building if the finished grade is level. If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground of each face of the building or structure being measured, before any earth is moved.

### **GRADE, AVERAGE EXISTING**

The average grade calculated from the grade elevations at the four points where an imaginary line parallel to the front and rear yard setback lines and touching the proposed structure intersects the required side yard setback lines.

## **SECTION 2.09            DEFINITIONS – H**

### **HARMFUL INCREASE**

Means an unnaturally high stage on a river, stream or lake which causes, or may cause damage to property, threat to life, personal injury, or damage to land or water resources.

### **HEDGE**

A close-set row of bushes, shrubs or small trees, usually with their branches intermingled, forming a barrier contiguous to a boundary line.

### **HOME OCCUPATION**

An occupation customarily conducted in a dwelling unit that is clearly an incidental and subordinate use of the dwelling.

### **HOSPITAL**

An institution providing health services, primarily for in-patients and medical or surgical care of the sick or injured, including as an integral part of the institution, such related facilities as laboratories, out-patient departments, training facilities, central services facilities and staff offices.

### **HOTEL**

A building where guests are provided a sleeping room and lavatory facilities, with or without meals, in return for payment.

**SECTION 2.10            DEFINITIONS – I**

**INDUSTRIAL USE**

A structure, building, parcel of land, or portion thereof utilized or inherently designed for the production, manufacturing, processing, cleaning, testing, rebuilding, assembly, distribution, finishing, construction and printing of goods or products; including related research and development facilities.

**INOPERATIVE OR ABANDONED VEHICLES**

Any vehicle which is self-propelled and/or intended to be self-propelled, and which by reason of dismantling, disrepair, or other cause is incapable of being propelled under its own power.

**INTENSIVE LIVESTOCK OPERATIONS**

A commercial operation where livestock are kept at a population per acre of at least four (4) dairy cattle, four (4) slaughter or feeder cattle, twenty (20) swine, seven hundred (700) poultry, ten (10) sheep or goats, or four (4) horses.

**SECTION 2.11            DEFINITIONS – J**

**JUNK**

Any vehicles, machinery, appliances, lumber, building materials, products, or merchandise with parts missing; scrap metals or materials that are damaged or deteriorated or reclaimed materials; or vehicles or machines in a condition which precludes their use for the purpose for which they were manufactured.

**JUNKYARD**

This term includes automobile wrecking yards and salvage yards and includes any area of more than two hundred (200) square feet for the storage, sale, processing, keeping or abandonment of junk, or for the dismantling, demolition or abandonment of automobiles or other vehicles or machinery or parts thereof, but does not include such uses when entirely within enclosed buildings.

**SECTION 2.12            DEFINITIONS – K**

**KENNEL**

Any lot or premises on which four (4) or more dog and/or cats, six (6) months of age or older are kept temporarily or permanently for the purpose of breeding, boarding or sale.

**SECTION 2.13            DEFINITIONS – L**

**LAKE FRONT LOT**

A lot having frontage along the shores of Lake Michigan, White Lake, Duck Lake, and Muskrat Lake.

## LOADING SPACE

An off-street space on the same lot as or within a building or group of buildings, for temporary parking for a commercial vehicle while loading or unloading merchandise or materials. Off-street loading spaces are not to be included as off-street parking space in computation of required off-street parking.

## LOT

A piece or parcel of land occupied or intended to be occupied by a building, structure, land use, or group of buildings and providing the open spaces or yards required by this Ordinance and having frontage upon a street or recorded private street or easement. Each lot will have a separate and distinct tax parcel identification number. Also, a site condominium unit, as regulated by Public Act 59 of 1978, as amended, designed and intended for separate ownership and use as described in the master deed.

## LOT AREA

The total horizontal area within the lot lines of a lot, excluding any recorded private street easement.

## LOT, CORNER

A lot located at the intersection of two (2) streets or a lot bounded on two (2) sides by a curving street, any two (2) cords of which form an angle of one hundred thirty-five (135) degrees or less.

## LOT COVERAGE

The part or percent of the lot occupied by buildings or structures, including accessory buildings or structures.

## LOT DEPTH

The mean horizontal distance from the front lot line to the rear lot line, or the two (2) front lot lines of a through lot.

## LOT, DOUBLE FRONTAGE (THROUGH)

A lot other than a corner lot having frontage on two (2) more or less parallel streets.

## LOT, INTERIOR

A lot other than a corner lot with only one (1) lot line fronting on a street.

## LOT LINES

The property lines or other described lines bounding the lot.

- A. Front Lot Line. In case of an interior lot, it is that line separating said lot from the right-of-way giving access to the lot. In the case of a through lot, it is that line separating said lot from either right-of-way. In the case of a corner lot, the shorter street line shall be the front lot line, except in the case of both street lines being equal; the choice may be made

at the discretion of the property owner. Once declared and so indicated on the building permit application, the designated front lot line shall remain as such.

- B. Rear Lot Line. Ordinarily, that lot line which is opposite and most distant from the front lot line of the lot. In the case of an irregular or triangular-shaped lot, a line at least ten (10) feet in length entirely within the lot parallel to and at the maximum distance from the front lot line shall be considered to be the rear lot line for the purpose of determining depth of rear yard. In cases where none of these definitions are applicable, the Zoning Administrator shall designate the rear lot line.
- C. Side Lot Line. Any lot line not a front lot line or rear lot line. A side lot line separating a lot from another lot line or lots is an interior side lot line.
- D. Street Lot Line. A lot line separating the lot from the right-of-way of a street or alley.

#### LOT OF RECORD

A lot which is part of a subdivision plat as shown on the records of the County Register of Deeds, or a lot or parcel described by metes and bounds, the description of which has been so recorded prior to the adoption of this ordinance and was lawful at the time of recording.

#### LOT WIDTH (Frontage)

The horizontal distance between the side lot lines, as measured at the front yard setback line and most nearly perpendicular to the side lot lines. No part of the lot may have a width less than the required minimum, except for frontage on cul-de-sac lots.

### **SECTION 2.14            DEFINITIONS – M**

#### MANUFACTURED HOME

A manufactured home, also known as a mobile home, is a structure: built on a permanent chassis, transported to its site in one or more sections, and affixed to a permanent foundation, and includes a residential building, dwelling unit, dwelling room or rooms, or a building component of a dwelling unit wholly or substantially constructed at an off-site location, transported to a site, erected or set.

#### MANUFACTURED HOME PARK

A parcel or tract of land under unified control upon which two (2) or more manufactured homes are located on a continual, non-recreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a manufactured home.

#### MANUFACTURED HOME SPACE

A plot of ground within a manufactured home park designed for the accommodation of one (1) manufactured home.



## MASTER PLAN

The Master Plan or Land Use Plan adopted by Fruitland Township, including graphic and written materials, indicating the general location for streets, parks, schools, public buildings, and all physical development of the Township, and includes any unit or part of such plan and any amendment to such plan.

## MOTEL

A building or group of buildings where guests are provided a sleeping room and lavatory facilities, with or without meals, in return for payment.

## MOTOR HOME

A motorized vehicular unit primarily designed for temporary dwelling in connection with travel and/or recreational usage. This term does not include manufactured homes.

## **SECTION 2.15            DEFINITIONS – N**

### NEW CONSTRUCTION

Means structures for which the “start of construction” commenced on or after the effective date of this Ordinance.

### NON-CONFORMING BUILDING

A building or portion thereof lawfully existing at the effective date of this Ordinance or amendments thereto, which does not conform to the provisions of the Ordinance relating to height, bulk, area, placement or yards for the Zoning District which it is located.

### NON-CONFORMING LOT OF RECORD

A platted lot of record that conformed with all Township zoning requirements at the time of recording of said plat, which no longer conforms to the zoning regulations and requirements for lot area, lot width, or both; or a lot of record outside a recorded plat that conformed with all Township zoning requirements at one time, and which has not been subdivided or reduced in size subsequent to the time it did conform to the Zoning Ordinance, which no longer conforms with the zoning requirements for lot area, lot width or both.

### NON-CONFORMING USE

A use which lawfully occupied a building or land at the effective date of this Ordinance or amendments thereof, that does not conform to the use regulations of the Zoning District in which it is located.

### NON-RESIDENTIAL DISTRICT

The NC, AP, LI Zoning Districts.

## NUISANCE

An offensive, annoying, unpleasant, or obnoxious thing or practice; a cause or source of annoyance, especially continuing or repeated invasion of any physical characteristics of activity or use across a property line which can be perceived by or affects a human being; or the generation of an excessive or concentrated movement of people or things such as, (a) noise, (b) dust, (c) smoke, (d) odor, (e) glare, (f) fumes, (g) flashes, (h) vibration, (i) objectionable effluent, (j) noise of a congregation of people, particularly at night, (k) passing traffic, or (l) invasion of street traffic generated from an adjacent land use which lacks sufficient parking and circulation.

## NURSERY

A parcel of land utilized for the purpose of growing ornamental trees, shrubbery, house plants, flowers or perennial ground covers, from seed or seedlings, for the purpose of retail or wholesale trade.

## NURSING HOME

An establishment for the care of the aged or infirm, or a place of rest for those suffering bodily disorders, wherein persons are provided care for compensation. Said facility shall conform to, and qualify for license under applicable State law.

## **SECTION 2.16            DEFINITIONS – O**

### OCCUPY

The residing of an individual(s) overnight in a dwelling unit, or the installation, storage or use of equipment, merchandise or machinery in an institutional, commercial or industrial building.

### OPEN AIR BUSINESS

A commercial operation conducted substantially in the open air, including but not limited to:

- A.     Bicycle, utility truck or trailer, motor vehicle, boats or home equipment sale, repair, rental, or storage services.
- B.     Outdoor display and sale of garages, motor homes, manufactured homes, snowmobiles, agricultural implements, swimming pools, and similar activities.
- C.     Retail sales of trees, fruits, vegetables, shrubbery, plants, seeds, topsoil, humus, fertilizer, trellises, lawn furniture, playground equipment, and other home garden supplies and equipment.
- D.     Tennis courts, archery courts, shuffleboard, horseshoe courts, rifle ranges, miniature golf, golf driving ranges, children's amusement park or similar recreation uses (transient or permanent).

### OPEN SPACE

That portion of a lot which is not covered with structures and is open to the sky.

## ORDINARY HIGH-WATER MARK

Lake Michigan, Duck Lake and White Lake shall be defined as 579.80 feet IGLD 1955 DATUM.

Creeks and Streams shall be defined as the line between upland and bottomland that persists through successive changes in the water level, below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil, and the vegetation. Delineation of the ordinary high-water mark on creeks and streams entails the identification of indicators on the bank of a creek or stream and the transition line between, aquatic vegetation (such as sedges and cattails) and terrestrial vegetation (perennial grasses and woody shrubs) or the scour line on exposed earth on the bank (from constant erosion) and terrestrial vegetation. On any creek or stream where the ordinary high-water mark cannot be found, the top of the lowest bank on either side shall substitute. In braided channels, the ordinary high-water mark or line of mean high water shall be measured so as to include the entire creek or stream feature.

## OUTDOOR FURNACE

A furnace, heating system, stove or boiler that is a separate structure, either above or below ground, not located in a building, but provides heat or hot water for a building or buildings on the same lot.

## **SECTION 2.17            DEFINITIONS – P**

### PARK

A parcel of land, building or structure used for recreational purposes, including but not limited to, playgrounds, sport fields, game courts, beaches, trails, picnicking areas and leisure time activities.

### PARKING LOT

A facility providing vehicular parking spaces, along with adequate drives, aisles, and maneuvering space that allows unrestricted ingress and egress to park at least two (2) vehicles.

### PARKING SPACE

An off-street space of at least one hundred eighty (180) square feet exclusive, of necessary driveways, aisles, or maneuvering space, suitable to accommodate one (1) motor vehicle and having access to a street or alley.

### PERSONAL SERVICE ESTABLISHMENTS

Any commercial business conducting services that are performed primarily on the premises.

### PLANNED UNIT DEVELOPMENT

Land that is under unified control that is planned and developed as a whole in a single stage development or series of development stages. The development may include streets, circulation ways, utilities, buildings, open spaces, and other site features and improvements.

#### PORCH, ENCLOSED

A covered entrance to a building or structure which is totally enclosed, and projects out from the main wall of said building or structure and has a separate roof or an integral roof with the main building or structure to which it is attached.

#### PORCH, OPEN

A covered entrance to a building or structure which is unenclosed except for columns supporting the porch roof, and projects out from the main wall of said building or structure and has a separate roof or an integral roof with the main building or structure to which it is attached.

#### PRINCIPAL USE

The primary use for which land or premises, and any building thereon, is designed, arranged, or intended, for which it is occupied, or maintained, let or leased.

#### PUBLIC UTILITY

Any person, firm, corporation, municipal department, board, or commission duly authorized to furnish to the public, under Federal, State or municipal regulations, electricity, gas, steam, communications, transportation, sewer or water services.

### **SECTION 2.18            DEFINITIONS – R**

#### RECREATIONAL VEHICLE OR EQUIPMENT

A vehicle or equipment intended for periodic use for recreational or leisure pursuits. Such vehicles shall include boats, airplanes, special purpose automobiles, floats, rafts, trailers, snowmobiles, camping and travel trailers, motorized homes, detachable travel equipment for the type adaptable to light trucks, and other equipment or vehicles of a similar nature.

#### RESIDENTIAL

This term relates to the use of real property for dwelling purposes and is the owner's principal, seasonal or main living place. This term does not include any rental of a dwelling for a fee if less than 30 consecutive days.

Property owners who own a dwelling but who live there only on a seasonal basis and who have a continuity of presence as evidenced by the storing of their personal possessions for their personal use such as golf clubs, ski equipment, cycling equipment, boating equipment, and clothing is included within the meaning of the term Residential.

#### RESIDENTIAL DISTRICT

Residential District shall refer to the RR, LDR, MDR, MHDR, and HDR Zoning Districts, as described in this Ordinance.

## RESTAURANT

An establishment whose principal business is the sale of food and/or beverages to customers in a ready-to-consume state.

## RIDING STABLE

A building or premises used for the shelter, care, riding, showing or other similar use of horses or other similar livestock.

## RIGHT-OF-WAY

A street, alley or other thoroughfare or easement permanently established for passage of persons, vehicles, or the location of utilities. The right-of-way is delineated by legally established lines or boundaries.

## RIPARIAN ACCESS

Riparian access applies to land along the shores of Lake Michigan, White Lake, Duck Lake, Muskrat Lake and any creek or stream which empties into the above lakes or any other lake.

## ROADSIDE STAND

An agricultural building or a separate structure used for the display or sale of agricultural products grown on the premises upon which the stand is located.

## **SECTION 2.19            DEFINITIONS – S**

### SALVAGE YARD

An open space where waste, surplus, discarded, or salvaged materials are brought, sold, exchanged, stored, baled, cleaned, packed, disassembled, or handled, including but not limited to house wrecking and structural steel materials and equipment and automobile wrecking.

### SATELLITE DISH ANTENNA, DISH ANTENNA

An apparatus capable of receiving communication from a transmitter relay located in planetary orbit.

### SCREEN

A structure providing enclosure, such as a fence, and a visual barrier between the area enclosed and the adjacent property. A screen may also be a non-structure, consisting of shrubs or other growing materials.

### SETBACK; SETBACK AREA

The minimum horizontal distance measured for the front, side, or rear lot line, as the case may be, required by the zoning district in which the lot is located.

## SETBACK LINES

Lines marking the setback distance for the lot lines which establish the minimum permitted front, side, or rear yards required in this Ordinance for the district in which the lot is located.

- A. Front Setback Line. The line marking the setback distance from the front lot line.
- B. Rear Setback Line. The line marking the setback distance for the rear lot line.
- C. Side Setback Line. The lines marking the setback distance for the side lot lines as measured to either the eaves or foundation, whichever is closer.

## SHORELINE

The shoreline is a strip of land along the shores of Lake Michigan, White Lake, Duck Lake and any creek and stream.

## SIGNIFICANT NATURAL FEATURE

Any natural area designated by the Planning Commission, Township Board, or the Michigan Department of Natural Resources, or other appropriate governmental agency which exhibits unique topographic, ecological, hydrological, or historical characteristics such as a wetland, floodplain, water features or other unique natural features.

## SITE PLAN

A plan showing all salient features of a proposed development, so that it may be evaluated in order to determine whether it meets the provisions of this Ordinance.

## STORY

That portion of a building included between the surface of any floor and the sill plate of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it; provided that portion shall be counted as a story only if over eighty percent (80%) of its height is above grade.

## STORY, HALF

That part of a building between a pitched roof and the uppermost full story, said part having a floor area which does not exceed one-half (1/2) the floor area of said full story, provided the area contains at least two hundred (200) square feet and which contains a clear height of at least seven and one-half (7 1/2) feet, at its highest point.

## STREET, ARTERIAL

Arterials streets shall be the following: Bard Road, Bell Road, Berquist Road, Blank Road, Clark Street, Creekside Drive, Dame Road, Duck Lake Road, Durham Road, Gibson Road, Green Creek Road, Hain Road, Hyde Park Road, Jay Road, Jones Road, Lakewood Road, Lamos Road, Lorenson Road, McMillan Road, Michillinda Road, Murray Road, Nestrom Road, Nord Road, Olds Lane, Orshal Road, Riley Thompson Road, River Road, Scenic Drive, Simonelli Road, South Shore Drive, Todd Road, Tyler Road, Wabaningo Road, Weber Road, White Lake Drive, Whitehall Road, Worden Road, Zellar Road.

#### STREET, PRIVATE

A privately owned and maintained right-of-way that affords traffic circulation and principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, road and other thoroughfare. A private street shall include any drive or roadway which is not a dedicated public right-of-way, and which provides or has the potential for providing access to existing parcels.

#### STREET, PUBLIC

A public right-of-way that affords traffic circulation and principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, road, and other thoroughfare; except an alley.

#### STREET, RESIDENTIAL

Residential streets are all those not listed as Arterial streets and include but are not limited to private streets and streets in subdivisions and site condominiums.

#### STRUCTURE

Anything constructed or erected which requires permanent location on the ground or attachment to something having such location, including but not limited to, all buildings and free-standing signs, but not including sidewalks, drives, patios, utility poles and the like. It includes any walled and roofed building that is principally above ground, gas or liquid storage facility, or a manufactured home.

#### STRUCTURE – SUPPLEMENTARY

A non building structure including canopies, scales and the like.

#### SUBSTANTIAL IMPROVEMENT

Means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent of the market value of the structure either, (1) before the improvement or repair is started, or (2) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions, or (2) any alteration of a structure listed on the National Register of Historic Places or a Michigan Register of Historic Places.

### **SECTION 2.20            DEFINITIONS – T**

#### TEMPORARY BUILDING OR USE

A structure or use permitted by the Zoning Administrator to exist during periods of construction of the main building or for special events as permitted by this Ordinance.

## TRAVEL TRAILER

A vehicular, portable unit built on a chassis designed to be used as a temporary dwelling for travel and recreational purposes, not exceeding eight (8) feet in width or thirty-five (35) feet in length. It includes folding campers and truck mounted campers.

## **SECTION 2.21            DEFINITIONS – V**

### VARIANCE

A modification of the literal provisions of the Zoning Ordinance granted when strict enforcement of the Zoning Ordinance would cause undue hardship owing to circumstances unique to the individual property on which the variance is sought.

### VEHICLE REPAIR

An activity involving the general repair, rebuilding or reconditioning of motor vehicles, engines, or trailers; collision services, such as body, frame, or fender straightening and repair; overall painting and vehicle rust-proofing; refinishing or steam cleaning.

### VEHICLE SERVICE STATION

A building designed or used for the retail sale of fuel (stored only in underground tanks), lubricants, air, water or other commodities for operating motor vehicles (including trucks, aircraft and boats) and including the customary space and facilities for the installation of such commodities on or in such vehicles and including space for storage, hand washing, minor repair, and servicing, but not including vehicle repair as defined in this Article.

### VEHICLE WASH ESTABLISHMENT

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

## **SECTION 2.22            DEFINITIONS – W**

### WALL

An upright structure of masonry, wood or other building materials serving to enclose, divide or protect an area.

### WIND TOWER

A structure designed to use wind power to pump water or generate electricity.

## **SECTION 2.23            DEFINITIONS – Y**

### YARD

A yard is an open space on the same land with a building or group of buildings, which open space lies between the building or group of buildings and the nearest lot line and is unoccupied by any structure and unobstructed from the ground upward, except as provided herein.



- A. A *Front Yard* is the open space extending the full width of the lot, uniform depth of which is measured at right angles to the front lot line.
- B. A *Rear Yard* is the open space extending the full width of the lot, the uniform depth of which is measured at right angles to the rear lot line.
- C. A *Side Yard* is an open unoccupied space between a main building and the side lot lines, extending from the front yard area to the rear yard area. The width of the side yard shall be measured horizontally from and at right angles to the nearest point of the side lot line.

#### YARD, REQUIRED

The yard is set forth in the applicable chapters of the Fruitland Township Zoning Ordinance as the minimum yard required in each zoning district.

#### **SECTION 2.24            DEFINITIONS – Z**

##### ZONING ACT

The Michigan Zoning Enabling Act; Act 110 of 2006 of the Public Acts of Michigan, as amended (MCL 125.3101, et seq).

##### ZONING ADMINISTRATOR

The person designated by the Township Board to administer the provisions of this Zoning Ordinance.

## **ARTICLE III GENERAL PROVISIONS**

### **SECTION 3.01          REQUIRED AREA**

No lots or lots in common ownership and no yard, parking area or other space shall be so divided, altered or reduced as to make such area or dimension less than the minimum required under this Ordinance. If already less than the minimum required under this Ordinance said area or dimension shall not be further divided or reduced.

### **SECTION 3.02          HEIGHT EXCEPTIONS**

- A.     The following buildings and structures shall be exempt from height regulations in all Districts: parapet walls not exceeding four (4) feet in height, chimneys, cooling towers, elevator bulkheads, fire towers, barns used for agricultural purposes, grain elevators, silos, stacks, elevated water towers, stage towers, scenery lofts, monuments, cupolas, domes, spires, penthouses housing necessary mechanical appurtenances, wind-powered electrical generators and other wind towers, and television and radio reception and transmission antennas and towers which do not exceed one hundred (100) feet in height but excluding towers in excess of fifty (50) feet in height for Wireless Communications Equipment and Wire Communications Support Structures.
  
- B.     Additions to existing buildings and structures which now exceed the height limitations of their District may be constructed to the height of the existing building or structure to which the addition is attached if the lot is large enough to encompass a circular area with a radius at least equal to the height of the tallest structure or building.

### **SECTION 3.03          PRINCIPAL USE**

- A.     No lot or parcel of land shall contain more than one (1) main building or one (1) principal use.
  
- B.     Land and buildings may be considered a principal use collectively if any one of the following conditions are met:
  - 1.     The land and buildings are planned and designed as a single integral development, including joint parking, compatible architecture, shared driveways, shared signs, and other similar features.
  - 2.     All uses, if not the same, shall be similar in function and/or operation.
  - 3.     A single-family dwelling located on the same parcel as an agricultural use.

### **SECTION 3.04          STREET ACCESS**

All lots shall front upon a public street or private street right-of-way for the minimum lot width required by this Ordinance.

**SECTION 3.05 BASIS OF DETERMINING FRONT YARD REQUIREMENTS**

- A. The front yard setback line shall be measured from the right-of-way line to an imaginary line across the width of the lot drawn at the minimum required front setback distance for that district, except as noted below.
- B. Where an average setback line less than that which is required by this Ordinance has been established by existing buildings located within two hundred (200) feet of the proposed building on the same side of the street, such average setback shall apply.
- C. On corner lots, the front yard and side yard requirements shall apply as set forth in the site development standards for the applicable zoning district in which the corner lot is located. In the case of a row of double frontage lots, one street will be designated as a front street for all lots. If there are existing structures in the same block fronting on one or both of the streets, the required front yard setback shall be observed on those streets where such structures presently front.
- D. On waterfront lots, the front yard requirements shall apply on the street side of the lot.

**SECTION 3.06 MINIMUM LOT WIDTH FOR IRREGULAR SHAPED LOTS**

The minimum lot width for a lot on a cul-de-sac or other irregularly shaped lot shall be measured at the front yard setback line and shall not be diminished throughout the rest of the lot. Such lots shall have a minimum lot width of forty (40) feet at the front property line.

**SECTION 3.07 PROJECTIONS INTO YARDS**

- A. Architectural features may project a maximum of four (4) feet into a front or rear yard setback area, but, except for a corner lot, shall not project into the side yard setback. On a corner lot an architectural feature may project a maximum of four (4) feet into the side yard setback facing the street.
- B. Porches, terraces, decks, balconies, window awnings, and similar structures which are open on all sides, unenclosed and uncovered:
  - 1. may project a maximum of ten (10) feet into a front yard setback area.
  - 2. may project a maximum of fifteen (15) feet into a rear yard setback area; but
  - 3. shall not project into a side yard setback area.
- C. If such structures are permanently enclosed on any side or covered in any manner, they shall be considered a part of the main building.
- D. Eaves may project into any yard setback but shall not project into any such setback more than Twenty-Four inches.

**SECTION 3.08            ACCESSORY BUILDINGS AND USES**

- A.     Accessory buildings attached to dwellings or other main buildings, including enclosed porches and garages, shall be deemed a part of such buildings and must conform to all regulations of this Ordinance applicable to such main buildings.
  
- B.     In addition to the accessory buildings and structures permitted herein, each single-family and each two-family dwelling may provide one garage for use by the occupants of each dwelling unit. The garage may be attached to the dwelling or detached from the dwelling. The maximum size of such garage shall not exceed 1,000 square feet.
  
- C.     On corner lots, accessory buildings or uses shall meet the site development standards for the zoning district in which the accessory building is located, and according to the requirements of Section 2.13 Definitions-L. In the case of double frontage lots, one street shall be designated as the front lot line street for all lots, and accessory buildings or uses shall be located no nearer to the front street than the required front yard setback line. If there are existing structures in the same block fronting on one or more of the streets, the required front yard setback shall be observed on those streets where such structures presently front.
  
- D.     An accessory building or use shall only be permitted on a lot which contains a principal use or main building.
  
- E.     No part of a detached accessory building shall be used for independent living facilities for one or more persons. No accessory building shall include all the permanent provisions for living, sleeping, eating, cooking and bathroom sanitary facilities.
  
- F.     Detached accessory buildings shall:
  - 1.       be located a minimum of ten (10) feet from any building on the lot, as measured from the eaves of the accessory building, or any portions of the structure, whichever is closer;
  - 2.       be placed at least two hundred (200) feet from the road right-of-way if located in the front yard, between the house and road in the RR, LDR, MDR, MHDR, and HDR Districts, with the exception of double frontage lots as regulated by Section 3.08 C. herein.
  
- G.     Setbacks for detached accessory buildings shall be measured to the eaves of the building, or any portion of the structure, whichever is closer.
  
- H.     Accessory building sizes, heights and setbacks.
  - 1.       The total area for all accessory buildings shall not exceed the maximum footprint areas, including any cantilevered or open-sided lean-to, noted below, as required by Section 3.08 H. 2. Herein, except that in no case shall the total square footage of all accessory buildings exceed thirty-two hundred (3,200) square feet.
  
  - 2.       Maximum floor areas and heights (as measured from the ground to the highest point of the roof) and setbacks for buildings accessory to single and two-family dwellings:

MAXIMUM ACCESSORY BUILDING FOOTPRINT SIZE	
Parcel Size	Maximum Building Footprint Size
Less than 1.00 acre	1,200 square feet
1.00 to 1.99 acres	1,500 square feet
2.00 to 2.99 acres	1,800 square feet
3.00 to 4.99 acres	2,100 square feet
5.00 to 9.99 acres	2,400 square feet
10.00 acres and over	3,200 square feet

MAXIMUM ACCESSORY BUILDING HEIGHT	
Building Footprint Size	Maximum Building Height
Less than 2,400 square feet	24 feet
2,400 to 3,200 square feet	35 feet

ACCESSORY BUILDING SIZE AND REAR YARD SETBACK		
Building Footprint Size	Minimum Building Setback	
	Side	Rear
100 square feet or less	10 feet	5 feet
Less than 1,200 square feet	10 feet	10 feet
1,200 to less than 1,500 square feet	15 feet	15 feet
1,500 to less than 2,400 square feet	25 feet	25 feet
2,400 to less than 3,200 square feet	50 feet	50 feet

3. The requirements for accessory buildings and structures in the Lake Michigan Shoreline District shall prevail.
4. The requirements for accessory buildings and structures in the Waterfront Marine District shall prevail.
5. Accessory buildings and structures on lakefront lots shall be subject to the requirements of Section 3.31 herein.
6. The requirements for accessory buildings and structures in the Manufactured Home Park District of shall prevail.
7. Requirements for accessory structures and uses for specific uses as regulated by Article XIV, Special Land Uses, shall prevail.
8. Maximum floor areas and heights (as measured from the ground to the highest point of the roof) for buildings accessory to uses other than single and two-family dwellings:
  - a. Multiple-family developments: nine hundred (900) square feet and 24 feet in height.

- b. Other uses in Nonresidential Districts and nonresidential uses in Residential Districts: not to exceed twenty-five percent (25%) of the ground floor area and the allowable height of the main building(s) for the district in which the use is located.
- I. The architectural character of any accessory building shall be substantially compatible with that of the principal building as determined by the zoning administrator.

**SECTION 3.09            REGULATIONS APPLICABLE TO ALL SINGLE-FAMILY DWELLINGS**

It is the intent of this Section to establish minimum standards of construction and appearance for all single-family dwellings placed in the Township, whether constructed on a lot or manufactured home. Construction and/or placement of a single-family dwelling on any lot or parcel shall be permitted only if the dwelling complies with all the following standards:

- A. If the dwelling unit is a manufactured home, the manufactured home must either be:
  - 1. new and certified by the manufacturer and/or appropriate inspection agency as meeting the Mobile Home Construction and Safety Standards of the U.S. Department of Housing and Urban Development of 1976, as amended, or any similar successor or replacement standards which may be promulgated; or
  - 2. used and certified by the manufacturer and/or appropriate inspection agency as meeting the standards referenced in subsection (1) above, and found, on inspection by the Building Inspector or his designee, to be in excellent condition and safe and fit for residential occupancy.
- B. The dwelling unit shall comply with all applicable building, electrical, plumbing, fire, energy and other similar codes which are or may be adopted by the Township, and with applicable federal or state standards or regulations for construction. Appropriate evidence of compliance with such standards or regulations shall be provided to the Building Inspector.
- C. The dwelling unit shall comply with all restrictions and requirements of this Ordinance, including without limitation, the lot area, lot width, residential floor area, yard, and building height requirements of the district in which it is located.
- D. The dwelling unit shall be firmly attached to a permanent continuous foundation which complies with applicable provisions of the building code adopted by the Township. Permanently attached steps shall also be required where a change in elevation requires such steps.
- E. If the dwelling unit is a manufactured home, the manufactured home shall be installed with the wheels and towing mechanism removed.
- F. The dwelling unit shall have a minimum horizontal dimension across any front, side or rear elevation of twenty-four (24) feet at time of manufacture, placement or construction.

- G. The dwelling unit shall have a roof overhang of not less than twelve (12) inches.
- H. The dwelling unit shall be connected to public sewer and water supply systems, or to private facilities for potable water and disposal of sewage approved by the Muskegon County Health Department.
- I. The foregoing standards shall not apply to a manufactured home located in a manufactured home park licensed by the Michigan Mobile Home Commission and approved by the Township according to the provisions contained in Article IX in this Ordinance except to the extent required by state or federal law.
- J. Additions, rooms or other area of dwellings shall be constructed with materials and craftsmanship of similar quality to the original structure and shall be permanently attached to the principal structure and constructed on a foundation as required by the applicable building code.

**SECTION 3.10            TEMPORARY STRUCTURES OR BUILDINGS REQUIRING ZONING ADMINISTRATOR AUTHORIZATION**

A.        Temporary Structures for Nonresidential Purposes

Temporary structures may be allowed in non-residential districts upon issuance of a permit by the Zoning Administrator. Upon application, the Zoning Administrator may issue a permit for a temporary office building or construction trailer that is incidental and necessary for construction at the site where it is located, including the storage of building supplies and machinery, temporary storage buildings, customary trade, contractor or architect identification sign in connection with a construction project. Such structures shall be removed within 15 days after construction is completed. Each permit shall specify a location for such structure and shall be valid for a period of not more than 12 calendar months. Permits may be renewed by the Zoning Administrator for one additional successive period of 180 days or less at the same location and for the same purpose.

B.        Temporary Dwellings for Residential Purposes

The Zoning Administrator may issue a permit for temporary use of a structure as a temporary dwelling (1) as a temporary living quarter if there is a dwelling on the same parcel that will be demolished, or (2) for use as a temporary dwelling for the occupants of a dwelling damaged by fire or storm, wind, act of God or other casualty. Temporary structures are not allowed in non-residential zoning districts except as provided above. Temporary dwellings may be allowed according to the following requirements, standards and conditions:

- 1. The temporary dwelling must be located within 100 feet of the principal residential dwelling.
- 2. The temporary dwelling has a water system and septic tank system that meets the requirements of the Health Department. A certificate from said department showing such compliance, including reserve drain field area, shall be filed with the building inspector before any use or occupancy.
- 3. A site plan with lot dimensions showing the proposed location of the temporary dwelling must be provided. A legal description for the lot shall also be provided.

4. There must be sufficient area to meet the minimum set back requirements and the temporary dwelling must be no less than three (3) feet from any lot line.
5. Unless the temporary dwelling is an existing structure that meets code, it must be a manufactured home. Accessory buildings, tents, recreational vehicles, trucks, cars, campers, cardboard boxes or any other vehicle or structure shall not be used as temporary dwellings.
6. If the temporary dwelling is a manufactured home, it shall have skirting of non-corrosive metal or plastic. All plumbing, electrical apparatus, insulation and installation and construction within and connected to the mobile home shall be of a type and quality conforming in all material respects to the safety requirements contained in the mobile home construction and safety standards as promulgated by the rules of the U.S. Department of Housing and Urban Development (HUD) specifications for mobile home construction as amended.
7. The applicant must demonstrate the ability and intent to erect, reconstruct, and/or complete a permanent dwelling on the premises by first submitting plans for, and receive a building permit for the construction or reconstruction of a permanent dwelling upon the premises.
8. The applicant must commence construction or reconstruction of the permanent dwelling within ninety (90) days after issuance of the building permit.
9. The temporary dwelling shall cease to be used as a dwelling upon completion and occupancy of the permanent dwelling upon the premises, and must be removed within thirty (30) days after the purpose for which the permit was issued no longer exists.
10. Permits issued to owners of property under this section shall be revocable upon thirty (30) days notice. Said notice shall be given by the Zoning Administrator or his designee and shall include specific violations of the Zoning Ordinance existent on that date. If the owner demonstrates compliance with the Zoning Ordinance prior to the expiration of said thirty (30) day period, the Zoning Administrator or his designee shall have the authority to rescind the notice.

Each permit shall specify a location for the temporary dwelling and shall be valid for a period of not more than 12 calendar months. Permits may be renewed by the Zoning Administrator for one additional successive period of 180 days or less at the same location for the same purpose. It shall be the property owner's responsibility to renew a permit. Failure to renew a permit within the specified time shall constitute expiration of the permit.

If the parcel already has a dwelling that will be demolished, the following additional conditions shall apply:

1. A written agreement shall be entered into between the property owner and the township setting forth the specific agreement regarding demolition. The agreement shall be signed by all persons having an interest in the property and by two (2) township officials. All signatures shall be notarized and the agreement shall be kept on file at the township hall.
2. All demolition must be completed within 180 days from the date the agreement is signed by all of the parties. The applicant must provide a financial guaranty of performance equal to 150% of the estimated cost of demolition as determined by the Zoning Administrator.



C. Approval Standards and Conditions

In considering authorization for all temporary buildings, the Zoning Administrator shall consider the following standards and may attach reasonable conditions to temporary structures to ensure that the standards of this section are met. The Zoning Administrator shall determine that:

1. The structure will not have an unreasonable detrimental effect upon adjacent properties.
2. The structure is reasonably necessary for the convenience and safety of the construction proposed.
3. The structure does not adversely impact the character of the surrounding neighborhood.
4. Access to the structure is located in a safe location.

In any event, the temporary structures and all debris shall be removed within thirty (30) days after completion of the work or expiration of the permit. Temporary buildings incidental to construction work shall be removed promptly upon completion or abandonment of work.

The fee to be paid for the issuance of a temporary dwelling permit for a temporary dwelling shall be established by the Township Board. If a permit is renewed, an additional fee will be collected. The Zoning Administrator shall revoke the temporary dwelling permit at any time if the usage violates any of the requirements outlined in this section. If a permit is revoked, the unit must be vacated and removed from the property within thirty (30) days, or it constitutes a violation of the Ordinance and is subject to the penalties outlined in this Ordinance.

**SECTION 3.11 FENCES, WALLS, BERMS AND SCREENS**

Notwithstanding other provisions of this ordinance, fences, walls, berms and screens may be permitted with a zoning permit.

1. No fence, wall, berm, sign, screen or any planting shall be erected in the road right-of-way or be maintained in such a way as to conflict with clear vision areas.
2. Fences on platted lots of record shall not contain barbed wire, electric current, charge of electricity, dangerous materials such as, but not limited to broken glass, bottle caps, or chain link type fences with sharp wire edges upwardly exposed. Exception: Fences enclosing domesticated animals, and for bona fide agricultural operations may use barbed wire, electric current, or other materials necessary.
3. Fences which enclose public or privately-owned parks, or recreational grounds or playgrounds, or public landscaped areas, shall not exceed nine (9) feet in height as, measured to the highest part of the fence, and shall not obstruct vision to an extent greater than twenty-five percent (25%) of their total area.
4. Within the limits of the rear yard, no fence, wall, or other screening structure other than evergreens, deciduous trees, shrubs, and bushes shall be erected higher than seven (7) feet above the surface of the ground.

5. Agricultural fencing: No farm animals shall be kept except within an entirely enclosed structure consisting of either a building or an area completely surrounded by fencing. The structure shall be of a height and kind sufficient to prevent animals from wandering at large. Fencing for Cervidae facilities shall be in accordance with State of Michigan guidelines and requirements. Such structures shall be located as required by the applicable provisions of the particular district in which the structure is located.

#### NON-LAKEFRONT LOTS

Any fences, walls, berms or screens erected between the required front yard setback line, or the rear of the house whichever is closest, and up to the street right-of-way, must not be in excess of five (5) feet in height as measured to the highest part of the fence, wall, berm or screen at any point.

Fences, walls, berms or screens shall not exceed seven (7) feet in height as measured to the highest part of the fence, wall, berm or screen if erected between the required front yard setback line or the rear of the house whichever is closest, and rear yard lot line.

#### LAKEFRONT LOTS

In the Critical Dunes and High-Risk Erosion areas, any fences, berms and walls built, and any vegetative planting and/or removal, must comply with all State and or Federal regulations.

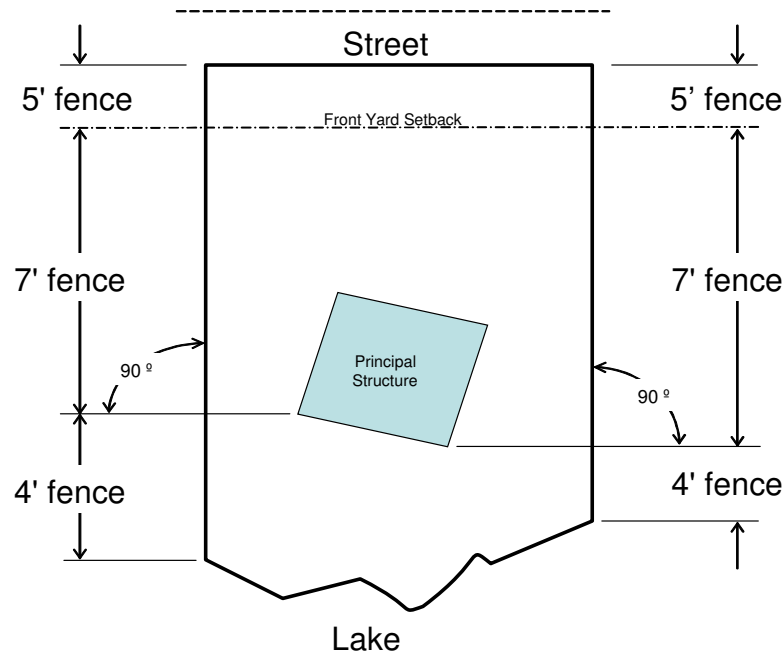
Any fence, wall, berm, or screen erected between the required front yard setback line or the rear of the house whichever is closest, and up to the street right-of-way, must not be in excess of five (5) feet as measured to the highest part of the fence, wall, berm or screen at any point.

Fences, walls, berms or screens shall not exceed seven (7) feet in height as measured to the highest part of the fence, wall, berm or screen at any point if erected between the required front yard setback line, or the rear elevation of the main house whichever is closest. In calculating the rear elevation of the main house to side yard lot line, measure perpendicular from the side yard lot line to the house rear elevation wall. Projections into rear yard, such as porches, dormers or decks shall not be used for this calculation.

For lakefront lots no fence, wall, berm, or screen shall be higher than four (4) feet in height between the shoreline and the lakeside of the home as measured perpendicular to the side yard lot line. On Lakefront lots that have no principal building the height of a fence, wall, berm or screen may not exceed four (4) feet. Fences on lakefront lots may be permitted with a zoning permit within the side setback of any yard provided that such fences meet the following:

1. Such fences must be for the purpose of delineation of property lines, not for the intent of obscuring vision or blocking out of natural light.
2. Such fences must be of man-made material or wood and must be intended for permanent installation.
3. Such fences must not exceed a maximum height of four (4) feet as measured to the highest part of the fence, wall, berm or screen at any point.

4. Fence materials such as plastic or wood/twisted style “snow” fences are not acceptable for permanent installations. Unless otherwise specified, all residential fences must be constructed of wood product, composite wood, rigid vinyl, wrought iron or chain link and shall comply with all State and or Federal regulations in the Critical Dunes and High-Risk Erosion areas.



### SECTION 3.12 CLEAR VISION AREAS

- A. No plantings, fences, walls, berms or screens shall be established or maintained on any lot which will obstruct the view of a vehicle driver approaching the intersection of public roads, private streets or any combination thereof. Such unobstructed corner shall be a triangular area formed by the street right-of-way, a line connecting them not less than ten (10) feet from the intersection of the street lines or in the case of a rounded property corner from the intersection of the street right-of-way extended. The Zoning Administrator may require a distance of more than ten (10) feet of unobstructed vision, if necessary to provide for a clear vision area.
- B. No plantings, fences, walls, hedges, berms, or screens, shall be established in any setback area which, in the opinion of the Zoning Administrator, will obstruct the view of a driver, or a vehicle, approaching or leaving a driveway or adjacent roadway.

### SECTION 3.13 GREENBELT AND LANDSCAPING

- A. In order to provide a protective screening for Residential Districts or uses adjacent or near Nonresidential Districts or uses, a landscaped greenbelt may be required by the Township to be installed on the Nonresidential District or use property.

- B. The greenbelt shall be a strip of at least ten (10) feet in width planted and maintained with evergreens such as spruce, pines, or firs at least five (5) feet in height, or a hedge of evergreens at least four (4) feet in height, at time of planting, and situated so as to provide an effective sound and visual permanent buffer.
- C. The portion of the landscaped area not covered by plant materials shall be kept in a healthy growing condition, neat and orderly in appearance.

**SECTION 3.14 ESSENTIAL SERVICES**

The erection, construction, alteration or maintenance of essential services, shall be permitted as authorized or regulated by law and other ordinances in any District, it being the intention hereof to exempt such erection, construction, alteration, and maintenance from the application of this Ordinance.

**SECTION 3.15 TEMPORARY STORAGE OF USED MATERIALS**

The storage, collection, or placing of used or discarded material, such as lumber, scrap iron, ashes, slag or commercial or industrial by-products or waste is prohibited after a period of two (2) weeks.

**SECTION 3.16 ILLEGAL DWELLINGS**

The use of any basement for dwelling purposes is forbidden in any Zoning District unless said basement meets the appropriate building codes for dwellings. Buildings erected as garages or accessory buildings shall not be occupied as a dwelling.

**SECTION 3.17 EXCAVATIONS, HOLES OR PONDS**

- A. The construction, maintenance, or existence within the Township of any unprotected, un-barricaded, open or dangerous excavations, holes, pits, or wells, including dams and weirs which constitute or are likely to constitute a danger, spread of disease, stagnation or menace are hereby prohibited. These requirements are set forth to protect the health, safety, and general welfare of the residents of the township.
- B. Any pond to be constructed having a surface area of more than one (1) acre (43,560 sq ft) or multiple ponds on lots or parcels containing a minimum area of ten (10) acres are subject to the requirements set forth in Section 3.17 C., review by the Planning Commission for Special Land Use approval and such conditions as imposed by the Planning Commission.
- C. Ponds may be constructed with a surface area of not more than one (1) acre (43,560 sq ft) on lots or parcels containing a minimum area of five (5) acres in all Zoning Districts subject to the following requirements:

1. The applicant shall submit an application form and pay an application fee as established by the Township board and submit a surety bond in the amount of five thousand dollars (\$5000), acceptable to the Township. The permit shall be issued if it is determined by the Zoning Administrator that the applicant will meet all requirements of this Section. All work must be completed within six months. The Zoning Administrator may extend the time needed for construction for good cause upon written application prior to the expiration of the six (6) month period. The surety bond shall not be released until all work has been completed in compliance with this section and shall be forfeited to the Township if all work is not completed in compliance with the permit, the Township Zoning Ordinance and within the time limit established herein. The proceeds of any bond forfeited hereunder may be used by the Township to restore any partially completed pond to a safe condition. Any property owner who applies for a pond permit must at the time of making application agree to allow the Township, its agents, or any third-party contractor hired by the Township to come on to the property owner's premises to inspect the pond or to make any physical changes necessary to prevent the pond from becoming a nuisance or hazard. The property owner shall also agree, at the time of making application to pay all sums necessary to prevent any partially completed pond from becoming a nuisance or hazard, that are in excess of any forfeited bond.
  2. Any excavation to a depth of more than two (2) feet covering more than one thousand (1000) square feet in contiguous area shall be considered a pond unless otherwise determined by the Zoning Board of Appeals.
  3. Ponds shall be permitted in the front yard with a minimum front yard setback of one hundred (100) feet from the road right-of-way.
  4. There shall be a minimum setback of one hundred (100) feet from the outside edge of any pond excavation to any dwelling and minimum setback of one hundred (100) feet from any property line.
  5. There shall be a minimum distance of separation from any septic tank or sewage disposal field of not less than one hundred (100) feet from any portion of any pond.
  6. Ponds shall be constructed and the material from the pond excavation shall be placed in such a manner that will prevent runoff, overflow, spillage, or seepage from encroaching on property owned by an adjoining property owner.
  7. Ponds shall be constructed such that there is no slope in excess of 3:1 (three feet horizontal to one (1) foot vertical) until the water depth of the pond exceeds five (5) feet. In no case shall any slope exceed 2:1.
  8. Applicant shall not haul excavated material from the property in an amount exceeding one thousand (1000) cubic yards without first obtaining a Special Land Use permit for surface mining from the Township.
- D. Applicants seeking to construct ponds larger than five (5) acres and/or ponds to be located within five hundred (500) feet of a lake, river, stream, or open county drain shall be required to submit applications to the State of Michigan Department which determines the extent to which the Natural Resources and Environmental Protection Act, Public Act 451 of 1994, applies to the proposal and also to apply for soil erosion permit with the Muskegon County Public Works Department.

### **SECTION 3.18 FILLING OF LAND**

No land shall be used for filling or disposal of inert material, such as barrow, fill sand, gravel, cinders, industrial waste or any material of any form or nature, without the issuance of a permit as provided herein.

- A. Definition: The terms fill, filling or disposal shall mean to accumulate, place, deposit, or to allow or permit the accumulation, placing or depositing of material.
- B. Application: Every application for a permit to fill any land shall be accompanied by a specification sheet showing the grade level proposed for the fill, a statement as to the materials to be used, the period of time over which the fill will be brought in and the contour of the lot after which the proposed fill is completed. The application will be made in writing to the Zoning Administrator.
- C. Permit to Fill. The Zoning Administrator will issue the permit to fill land, after it is determined:
  - 1. That such filling will not cause additional surface water to collect or to run off onto adjoining lands contrary to normal and natural drainage.
  - 2. That such fill material will not unreasonably cause blowing dust, grime, fumes or odors.
  - 3. That such fill will not decay or rot in such a manner as to cause holes or soft areas to develop in the lands so filled.
  - 4. That upon completion of such fill the property will be left in such a condition that it may be properly used for the use designated for the area in the Zoning Ordinance and Maps.
  - 5. That such fill shall not operate to prohibit light and air to the adjoining properties.
  - 6. That such filling operations will not be conducted before sunrise or after 10:00 P.M. local time.
  - 7. That the transportation of such fill material will be made in trucks or vehicles properly suited to such transport so that it will not be spread upon the highways and roads in the Township.
  - 8. That such fill will not cause any hazard of fire and that combustible material shall not become any part of fill material.
  - 9. That the filling will be carried out under the terms and conditions set forth and that the Township may require a performance guarantee running to the Township and conditioned upon the applicant faithfully carrying out all the terms and conditions of the permit.
  - 10. All applicants are advised that if they change the grade of property, the change could cause increased water runoff to other nearby property, which could subject them to civil liability for any damage caused to nearby property as a result of the increased water runoff.
  - 11. Up to three hundred (300) cubic yards of clean fill sand or topsoil for the purpose of a septic system, driveway, or landscaping may be imported without a permit provided it is used immediately. Culverts will be placed at all natural drainage courses or other waterways as determined by the Zoning Administrator.

**SECTION 3.19            SATELLITE DISH ANTENNAS**

- A.     These regulations shall not apply to dish antennas that are one (1) meter (39.37 inches) or less in diameter in Residential Districts or two (2) meters or less in diameter in Nonresidential Districts.
  
- B.     In any Nonresidential District, the following restrictions shall apply:
  - 1.     The dish antenna shall be permitted in the side or rear yard or mounted on top of a building, securely anchored.
  - 2.     The nearest part of the antenna shall be at least fifteen (15) feet from any property line.
  - 3.     The height shall not exceed the height restriction in the district in which the proposed device is to be located.
  - 4.     No portion of the dish antenna shall contain any name, message, symbol, or other graphic representation.
  - 5.     A site plan shall be prepared and submitted to the Zoning Administrator for approval prior to issuance of a building permit. The site plan shall include the proposed location and an elevation drawing showing the proposed height and foundation details.
  
- C.     In any Residential District, the following restrictions shall apply:
  - 1.     The dish antenna shall be permitted in the rear yard only.
  - 2.     The nearest part of the antenna shall be at least fifteen (15) feet from any property line.
  - 3.     The unit shall be securely anchored as determined by the Building Inspector.
  - 4.     The maximum height measured from the ground to the top edge of the dish shall be fourteen (14) feet.
  - 5.     The antenna shall be an unobtrusive color, as approved by the Zoning Administrator. Nor shall any portion of the dish antenna contain any name, message, symbol, or other graphic representation.
  
  - 6.     A site plan shall be submitted to the Zoning Administrator for approval prior to the issuance of a building permit. The site plan shall include the proposed location of the antenna and an elevation drawing showing the proposed height, color, and foundation details.
  
- D.     These regulations are formulated to ensure that adequate protection measures are provided in the Ordinance for ensuring that sight distance is not impaired, that such dish antennas are located and constructed in a manner which will not afford the potential for injury, and to ensure that the intent and purposes of this Ordinance are met.
  
- E.     The Zoning Administrator shall permit any waivers or modifications of these restrictions to the minimum extent necessary to permit full reception and use of the dish antenna, if existing buildings, vegetation, topography, or other factors cause interference with reception.

### **SECTION 3.20 EXTERIOR LIGHTING**

All lighting of a high intensity nature, intended to illuminate broad areas, shall be directed away from, and if necessary, shall be shielded to prevent the shedding of light onto adjacent properties or roadways. Light poles shall be limited to twenty (20) feet in height.

### **SECTION 3.21 HOME OCCUPATIONS**

- A. No person(s) other than the resident occupant(s) shall be engaged in the home occupation.
- B. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants. The home occupation shall be operated in its entirety within the principal dwelling or attached accessory building, but shall not, in any case, exceed a total floor area equal to not more than twenty five percent (25%) of the gross floor area of the dwelling unit and attached accessory building.
- C. There shall be no change in the outside appearance of the dwelling, or other visible evidence of the conduct of such home occupation other than one (1) sign, not exceeding two (2) square feet in area, non-illuminated, and mounted flat against the wall of the dwelling.
- D. Any traffic generated by such home occupation shall not be so great as to cause serious adverse effects within or upon the surrounding neighborhood. Parking areas for such home occupation shall be located off the street and in areas used for such purposes by the residence.
- E. No retail or other sales of merchandise or products shall be conducted except for incidental products directly related to the home occupation or those goods actually produced on the premises.
- F. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses outside the dwelling in which the home occupation is conducted.

### **SECTION 3.22A TEMPORARY SALES**

- A. The Zoning Administrator may issue a permit, with conditions if deemed necessary for the temporary sale of merchandise in any district, related to a seasonal or periodic event. Such seasonal sales shall include the sale of Christmas trees, or other similar activities, but shall not be deemed a permanent structure designed for such use.
- B. In considering a request for a temporary permit, the Zoning Administrator must determine that the operation of such a use is seasonal in nature and will not be established as a permanent use. The Zoning Administrator will also determine:
  - 1. that the use does not have a detrimental effect upon adjacent properties;
  - 2. that the use does not impact the nature of the surrounding neighborhood;



3. that access to the area will not constitute a traffic hazard due to ingress or egress; and
4. that adequate off-street parking is available to accommodate the use.

Each permit shall be valid for a period of not more than thirty (30) days, and may be renewed by the Zoning Administrator for up to fourteen (14) days, provided the season or event to which the use relates is continued.

### **SECTION 3.22B RESIDENTIAL GARAGE/ BASEMENT/ YARD SALES**

The owner or occupant of the principal single-family dwelling shall be entitled by right to hold two (2) garage/ basement/ yard sales per calendar year, not to exceed a maximum of three (3) consecutive days per sale.

### **SECTION 3.23 NON-CONFORMING BUILDINGS, STRUCTURES AND USES**

- A. General Conditions. Subject to the provisions of this Section, the lawful use of any building or structure or of any land or premises which is existing and lawful on the effective date of this Ordinance, or in the case of an amendment of this Ordinance, then on the effective date of such amendment, may be continued although such use does not conform with the provisions of this Ordinance or such amendment.
- B. Expansion and Substitution of Nonconforming Buildings or Structures.

Non-Conforming buildings and structures may be maintained and repaired to be kept in sound condition and may be restored or rebuilt provided they meet one of the following four (4) requirements:

1. Meet all site development standards of that zoning district thereby eliminating the non-conformity.
2. On lakefront properties if the side and rear setbacks are met expansion or enlargement shall comply with the setback and height requirements and all other applicable requirements of that zoning district.
3. On lakefront properties if the side or rear setbacks are not met then only that portion which meets the setback requirements may be expanded or enlarged up to 50% of the gross floor area as it existed as of January 1, 2012. Any such expansion or enlargement shall comply with the setback and height requirements and all other applicable requirements of that zoning district.
4. On non-lakefront properties buildings and structures may be maintained, repaired, expanded or rebuilt on the existing footprint but may not be expanded or rebuilt into any setback requirement beyond the original height or location other than the front setback may be expanded along the line of the existing structure as long as the side yard setback of the zoning districts are maintained.

A topographical survey prepared by a licensed surveyor shall be required for all lakefront non-conforming structures to assure proper grade elevations and placement. Restoration or rebuilding is permitted whether the non-conforming building or structure is damaged by fire, wind, act of God, or other casualty or is demolished and regardless of the cost of such rebuilding or restoration. A building permit shall be obtained within one (1) year of loss, or else restoration or rebuilding shall not be permitted as described above.

- C. Change or Discontinuance. The nonconforming use of a building or structure or land shall not be:
1. Changed to any other nonconforming use unless the Board of Zoning Appeals finds that such change in use will have a less harmful effect on neighboring properties than the existing nonconforming use.
  2. Re-established after discontinuance, vacancy, lack of operation or otherwise for a period of six (6) months.
  3. Re-established after it has been changed to a conforming use or less nonconforming use.
- D. Building or Structure under Construction on the Effective Date of this Ordinance. Any building or structure shall be considering existing, lawful and to have been in use for the purpose for which it was constructed if on the effective date of this Ordinance, or amendment, a building permit has been obtained therefor, if one is required, or, if no building permit is required, then if a substantial start has been made toward construction and construction is thereafter pursued diligently to conclusion.
- E. Lots of Record.
1. Lots of Record – Residential. Any parcel created or recorded prior to the effective date of this Ordinance, or amendment, in a district permitting a dwelling as a matter of right may be used for a single-family dwelling even though the lot area, lot width and/or dimensions are less than those required for the district in which the lot is located, provided that the dwelling and/or any other structures on the lot comply with the minimum floor area, height, lot coverage, and yard setbacks required in that district or those setbacks previously approved for subdivisions or condominiums being no less than thirty (30) feet for front and rear setbacks and ten (10) feet side yard setbacks.
  2. In the event that any parcel that conformed with the dimensional requirements of this ordinance at the time that a dwelling was erected upon said parcel and thereafter said parcel becomes dimensionally nonconforming as a result of a foreclosure over a portion of the parcel or a partial taking by eminent domain then the use of the remaining parcel for residential purposes shall be allowed to continue, however any structures on the parcel shall not be further enlarged without compliance with such other applicable requirements of this ordinance or as may be allowed by way of variance.

3. Lots of Record – Non-Residential. Any parcel created and recorded prior to the effective date of this Ordinance, or amendment, in a district that does not permit a dwelling as a matter of right may be used for a purpose lawful in that district even though the lot area and/or dimensions are less than those required for the district in which the parcel is located, but only if such use is authorized as a variance by the Board of Zoning Appeals, in accordance with the variance provisions of the Ordinance.
  4. In all residential zoning districts, if two or more adjacent nonconforming vacant lots of record are held in common ownership, said lots shall be considered to be an undivided parcel for purposes of obtaining a zoning permit and shall be combined into a parcel (s) that has a lot width of at least 90 feet and a lot size of at least 50 percent of the minimum lot area required in the zoning district where the parcel (s) are located.
- F. Change in Tenancy or Ownership. There may be a change in tenancy, ownership or management of any existing nonconforming uses of land, structures and premises, provided there is no change in the nature or character of such nonconforming uses.
- G. Elimination of Nonconforming Use, Building, or Structure. The Township Board may acquire by purchase, condemnation or other means, private property or an interest in private property for the removal of any nonconforming use, building or structure. The cost or expense or a portion thereof may be paid from general funds or assessed to a special district in accordance with applicable statutory provisions.

### **SECTION 3.24 DEMOLITION PERMITS**

No buildings shall be razed until a permit has been obtained from the Building Inspector who shall be authorized to require a performance bond in such amount according to a schedule as determined by the Township Board. Such bond shall be conditioned on the applicant completing the razing within a reasonable period as prescribed in the permit and complying with such requirements as to health and safety as the Building Inspector may prescribe, including, but not limited to, filling excavations and proper termination of utility connections.

### **SECTION 3.25 MAXIMUM DEPTH TO WIDTH RATIO**

- A. In all Residential Districts, no lot shall be created whose lot depth exceeds four (4) times its width, except for residentially zoned lots or parcels that have more than one half (1/2) of their street frontage on a cul-de-sac. For purposes of this Section, the beginning points of a cul-de-sac shall be deemed to be the intersections of the radius of the cul-de-sac with the right-of-way lines of the street connected to the cul-de-sac.
- B. In the case of an unimproved corner lot or corner parcel, the depth of a lot or parcel shall be measured midway between the side lot lines and from the front lot line to the rear lot line along the dimension of the lot comprising the greatest distance.

- C. The Planning Commission may allow parcels having a depth greater than four (4) times their width providing any three of the following conditions are met.
1. At least 50% of that portion of the parcel that would otherwise meet the 4:1 ratio contains slopes greater than 12%.
  2. At least 50% of that portion of the parcel that would otherwise meet the 4:1 ratio has a high groundwater table, such that the County Health Department requires significant alteration of the site such as mounding of soil to meet septic system requirements.
  3. At least 50% of that portion of the parcel that would otherwise meet the 4:1 ratio is within the 100-year floodplain as determined by the township, the U.S. Corp of Engineers, or the Federal Emergency Management Agency (FEMA).
  4. That portion of the parcel that would otherwise meet the 4:1 ratio contains creeks, rivers, lakes or other surface water features that make compliance with the 4:1 ratio impractical.
  5. That portion of the parcel that would otherwise meet the 4:1 ratio contains natural vegetation such as mature stands of trees or thick brush. It must be demonstrated that without relief from the 4:1 ratio, residential construction activities would destroy habitat or woodlots.
- D. The Planning Commission, in making its determination, may consider factors such as, but not limited to:
1. Past and present uses of the parcel and adjoining parcels.
  2. Past productivity, vegetation, and the difficulty in making the parcel suitable for residential construction activities.
  3. The likelihood of conflicts arising between the proposed uses and surrounding land uses.
  4. The precedent set by allowing the proposed use in the circumstances under consideration will not adversely affect the long-term plans and development policies of the Township.
  5. Must have proof that the water supply and septic systems are approved by the County Health Department.
- E. Under no circumstances shall:
1. the parcel be located within the Agricultural Overlay District.
  2. the depth of any parcel exceed six times the width.

**SECTION 3.26 SITE CONDOMINIUMS**

- A. A site condominium unit shall be a unit created by the division of land on the basis of condominium ownership which is not subject to the provisions of the Land Division Act, Public Act 288 of 1967, as amended.
- B. A site condominium unit shall be treated as a separate lot or parcel and may have such buildings constructed thereon and such uses conducted thereon as allowed in such zoning district provided such unit meets the district regulations for the zoning district in which it is located.

- C. A site plan, including all the condominium documents required for the establishment of a condominium, shall be reviewed by the Planning Commission in accordance with Article XV.

**SECTION 3.27 SWIMMING POOLS**

- A. A swimming pool or appurtenances thereto shall not be constructed, installed, enlarged, or altered until a building permit has been obtained.
- B. The outside edge of the pool wall shall not be located closer than thirty (30) feet from any rear lot line or twenty (20) feet from any side lot line. Swimming pools shall not be located in the front yard unless it is placed at least two hundred (200) feet from the road right-of-way.
- C. All swimming pools shall be constructed and enclosed by a barrier in accordance with applicable construction codes as adopted by Fruitland Township.

**SECTION 3.28 STORAGE AND REPAIR OF VEHICLES**

The carrying out of repair, restoration and maintenance procedures or projects on vehicles in any Residential District, shall be conducted entirely within the interior of a building, in accordance with Dismantled Car Ordinance, 35-2-0, except as follows:

- A. Procedures or projects which require the vehicle immobile or inoperable fourteen (14) days or less within any six (6) month period may be carried out outside a building.
- B. Inoperable vehicles and vehicle parts shall be stored inside a building.

**SECTION 3.29 OUTDOOR STORAGE IN RESIDENTIAL DISTRICTS**

The outdoor storage or parking of recreational vehicles or recreational equipment, in all Residential Districts shall be subject to the following minimum conditions:

- A. All such vehicles or equipment, if stored or parked outside, must be operable and must be licensed where applicable.
- B. All such vehicles or equipment, if stored or parked outside, shall be located in a rear yard or side yard, adhering to side yard setbacks of zoning district in which it is located.
- C. Recreational vehicles or equipment shall be parked or stored on a lot or parcel of land containing a dwelling or commercial building. The lease of space for storage or parking of recreational vehicles or equipment for compensation shall not be permitted in a Residential District.

- D. Unless otherwise authorized by this Ordinance, travel trailers and other recreational vehicles or equipment intended or adaptable for sleeping purposes shall remain unoccupied and shall not be connected to sanitary sewer facilities or have a fixed connection to electricity, water, or gas, provided that such equipment may be parked and used for living or housekeeping purposes for a period not exceeding fourteen (14) days in any twelve (12) month period, provided that running water or indoor sewage facilities within such equipment is not utilized.

### **SECTION 3.30 OUTDOOR FURNACES**

- A. Outdoor furnaces are allowed in all districts except the Medium High Density and High-Density Residential Districts.
- B. There shall be a minimum side yard setback of 200% of the side yard setback for the prescribed district.
- C. Fuels that may be burned in an outdoor furnace:
- Wood without additives
  - Wood pellets without additives
  - Agricultural seeds in their natural state
- D. Fuels that may not be burned in an outdoor furnace:
- Leaves and grass and other similar waste
  - Rubbish/garbage including food waste, food packaging
  - Animal carcasses
  - Furniture
  - Composite shingles
  - Construction or demolition debris
  - Household or business waste
  - Waste oil or other oily products
  - Treated or painted wood
  - Rubber including tires and synthetic type products
  - Newspapers or corrugated cardboard
- E. A mechanical permit will be required to install an outdoor furnace.

### **SECTION 3.31 AVERAGE SETBACK LINES**

- A. Front (Non-lakefront Lots). When the required front yard setback can not be met if there are existing principal buildings within two hundred (200) feet on each side of a proposed building location, the average setback line shall be determined as the average distance of the nearest principal building on each side located within two hundred (200) feet on the same side of the street. If there is an existing principal building within two hundred (200) feet of the proposed building location on only one (1) side, the proposed building location shall be the average of the distance of the nearest principal building within two hundred (200) feet and the otherwise required setback. The building shall not be located closer than fifty (50) feet to an arterial street or thirty-five (35) feet to a residential Street right of way.

- B. Front (Lakefront Lots on Arterial Streets). For lakefront lots served by arterial streets the front yard setback for any building including accessory buildings is 100 feet. When the required front yard setback can not be met if there are existing buildings within two hundred (200) feet on each side of a proposed building location, the average setback line shall be determined as the average distance of the nearest building on each side located within two hundred (200) feet on the same side of the street. If there is an existing building within two hundred (200) feet of the proposed building location on only one (1) side, the proposed building location shall be the average of the distance of nearest building within two hundred (200) feet and the otherwise required setback. The building shall not be located closer to the street right-of-way than the average setback of those buildings, but in no case closer than fifty (50) feet.
- C. Front (Lakefront Lots on Residential Streets). For lakefront lots served by residential streets the front yard setback for any building including accessory buildings is 50 feet. When the required front yard setback can not be met if there are existing buildings within two hundred (200) feet on each side of a proposed building location, the average setback line shall be determined as the average distance of the nearest building on each side located within two hundred (200) feet. If there is an existing building within two hundred (200) feet of the proposed building location on only one (1) side, the proposed building location shall be the average of the distance of the nearest building within two hundred (200) feet and the otherwise required setback. The building shall not be located closer to the street right-of-way than the average setback of those adjacent buildings, but in no case closer than thirty-five (35) feet.
- D. Rear (Shoreline). For parcels on White Lake and Duck Lake if there are existing principal buildings on adjacent lots within two hundred (200) feet on each side of a proposed building location, a proposed building or structure must be located no closer to the ordinary high-water mark than the average distance from the ordinary high-water mark of the nearest principal buildings located within two hundred (200) feet on each side from the proposed structure. If there is a vacant waterfront lot within two hundred (200) feet, the one hundred (100) foot setback shall be used for averaging.

The average setback line shall be determined by extending a line perpendicular to the ordinary high-water mark to the existing structure. The length of the shortest setback distance of each adjoining lot will be averaged, establishing the proposed average building setback line.

A proposed structure may be located an additional five (5) feet closer to the water than averaging may allow so long as the proposed structure satisfies twice the required setback on each side.

- E. Lake Michigan Shoreline Setback. The required setback for all structures, buildings, and new construction above and below ground, including septic systems, is a minimum of one hundred (100) feet landward from the Ordinary High-Water Mark of 580.5 IGLD 1985 or one hundred (100) feet landward of the bluff line, whichever is further landward. If a greater setback is required by any agency or division of the State of Michigan or

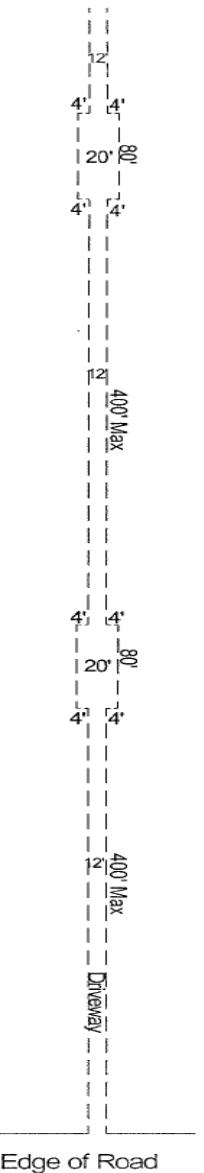
Michigan statute (or by the federal government) than is required by this section, then such greater setback requirement shall apply. If there are existing principal buildings on adjacent lots within two hundred (200) feet on each side of a proposed building location, a proposed building or structure may be located the same distance from the top of bluff as the average distance from the principal building located within two hundred (200) feet on each side from the proposed structure. If there is a vacant waterfront lot within two hundred (200) feet, the one hundred (100) foot setback shall be used for averaging for the adjacent vacant lot.

A principal structure more than three hundred (300) feet from the top of the bluff shall not be used and the one hundred (100) foot setback shall be averaged. Please also see Section 6.04a hereof.

A proposed structure located twice the required side yard setback can be placed five (5) feet closer to the lake than the averaging allows. No proposed new structure shall be allowed closer than one hundred (100) feet from the top of the bluff without the benefit of a variance.

**SECTION 3.32      DRIVEWAYS**

Each building site is to be serviced by a driveway. All new driveways must have a travel surface of 12 foot wide constructed of gravel, concrete, asphalt, crushed limestone, crushed concrete, slag or combination of these or other materials as may be approved by the Zoning Administrator with an additional cleared 3 feet on each side, a cleared height of 13 ½ feet and for every 400-foot interval a 20 X 80-foot area for pass or re-pass of emergency vehicles. Driveways shall not be closer than 80 feet to an intersection, except for exceptional circumstances as approved by the Fruitland Township Board, or their designated representative, and the Muskegon County Road Commission. Except for building sites on private streets, an approved driveway permit must be obtained from the Muskegon County Road Commission (MCRC) and submitted to the Building Inspector prior to the issuance of a building permit. Adjacent to and on both sides of a driveway, the area between the right-of-way line and the pavement edge shall be maintained clear of any objects that obstruct the vision of the roadway from the driveway.



**SECTION 3.33      ROUNDING TO THE NEAREST FOOT**

Dimensional requirements contained in this ordinance may be met provided the required dimension is satisfied to the nearest foot. However, one-half (0.5) shall not be satisfactory for rounding up.



**SECTION 3.34            AGRICULTURE USES**

1.        Except as may be otherwise regulated elsewhere in this ordinance, Agricultural Buildings accessory to agricultural uses:
  - a)        Greater than 2,400 square feet but less than 3,200 square feet in size shall be located no nearer than 100 feet to any property line.
  - b)        3,200 square feet in size and larger shall be located no nearer than 200 feet to any property line.
2.        The combined total of all Accessory Buildings shall not exceed 1/2% of parcel size, or 3,200 square feet, whichever is greater.

**SECTION 3.35            REQUIREMENTS FOR WIRELESS COMMUNICATION TOWERS AND ANTENNAS WHICH DO NOT EXCEED A HEIGHT OF 50 FEET.**

- A.        The following regulations shall not apply to satellite dishes regulated by Section 3.19, wind energy systems regulated by Article XXIII, MET towers as regulated by Article XXIV, and towers and antennas which are otherwise specifically regulated by this Zoning Ordinance. All other towers and antennas which do not exceed a height of fifty feet shall comply with the following regulations:
- B.        Towers and Antennas Allowed by Right. The following antennas are allowed in the RR and LDR zoning districts subject to the requirements of the district, approval by the Township Zoning Administrator and the issuance of a building permit:
  1.        An antenna which is no more than fifty feet in height when attached to a new or existing structure such as a tower or monopole. The height shall be measured from the top of the antenna to the average grade within twenty-five feet of the base of the new or existing structure;
  2.        An antenna which is attached to or placed on the roof of an existing structure provided the antenna does not exceed a height of fifty feet as measured from the top of the antenna to the average grade at the base of the existing structure or the antenna does not extend above the highest point of the new or existing structure whichever is greater;
  3.        The antenna or tower shall be permanently secured to a stable foundation; and
  4.        All antennas and towers must be grounded against damage from lightning.

**SECTION 3.36            EXISTING WIRELESS COMMUNICATION TOWERS AND ANTENNAS EXCEEDING A HEIGHT OF FIFTY FEET AS A USE BY RIGHT**

A.     Collocation of New Wireless Communications Equipment and Modification of Existing Wireless Communications Support Structures Permitted by Right: The collocation of new or the replacement of existing wireless communications equipment as defined herein and the modification of existing wireless communications support structures shall be permitted by the Zoning Administrator subject to compliance with all of the following requirements and the issuance of the applicable Township building and electrical permits:

1.     The wireless communications equipment will be collocated on an existing wireless communications support structure or in an existing equipment compound;
2.     The existing wireless communications support structure or existing equipment compound is in compliance with the Ordinance;
3.     The proposed collocation will not do any of the following:
  - i.     Increase the overall height of the wireless communications support structure by more than twenty feet or twenty-percent of its original height, whichever is greater. The height shall be measured from the top of the support structure to the average ground grade within twenty-five feet of the base of the wireless communications support structure;
  - ii.    Increase the width of the original wireless communications support structure by more than the minimum necessary to permit collocation; or
  - iii.   Increase the area of the existing equipment compound to greater than two thousand-five hundred square feet.
4.     The proposed collocation complies with the terms and conditions of any previous final approval of the wireless communications support structure or equipment compound by the appropriate zoning body or official of Fruitland Township; and
5.     Any wireless communications equipment which meets the requirements of Section 3.36 B. a. and b. but does not meet the requirements of Section 3.36 B. c. or d. shall only be approved if it is approved as a special land use according to the requirements of Section 14.04 EE. of the Ordinance.

B.     Application and Submittal Information. The applicant shall file with the Township an application for wireless communications equipment and wireless communication support structures under Section 3.36 B. that shall include the following information:

1.     A complete written and graphic description of the proposed wireless communications equipment and wireless communications support structure. This shall include an illustration of the antenna and support structure to be installed and its design including cross section and elevation drawings and a diagram of how the tower/antenna will be anchored;

2. A statement that the proposed wireless communications equipment and wireless communication support structure will be installed in accordance with the manufacturer's specifications and applicable Township codes. A set of drawings sealed by a professional engineer for the installation of the wireless communications equipment and wireless communications support structure shall also be provided;
  3. A description of the tower ordinary maintenance program;
  4. A decommissioning plan explaining the process to be undertaken by the applicant for tearing down the tower and removing all wireless communications equipment, materials and support structures and restoring the property so it can be used by a use permitted in that Zoning District;
  5. Security measures including emergency contact personnel;
  6. The applicant shall provide documentation that indemnity and insurance coverage exist for the wireless communications equipment and wireless communications support structure in the event that damage or personal injury occurs or the provider abandons the wireless communications support structure. The specific dollar amount of the indemnity and insurance coverage shall be approved by the Township and the cancellation of such policy shall not be effective without the approval of the Township; and
  7. All required fees shall be paid to the Township at the time of application.
- C. Site Plan Requirements. The applicant shall also file with the Township three copies of a site plan accurately drawn at a scale of not more than one-inch equals one-hundred feet containing the following information unless specifically waived by the Zoning Administrator:
1. The date on which the site plan was prepared as well as the name of the preparer;
  2. A north arrow and legal description of the property;
  3. The area and dimensions of property containing the tower and antenna including any area leased for the tower;
  4. A location map sufficient to show the character of the area surrounding the proposed antenna and the zoning and land use on adjacent properties;
  5. The height of the tower and antenna and its distance to all property lines;
  6. Any buildings or existing structures on the property;
  7. The distance to the closest building on adjacent property;
  8. The location of any overhead transmission lines on the site or on adjacent property which might be affected by the tower;

9. Any tower supporting structures or devices;
10. Type and height of fencing to be installed around the tower or wireless communications equipment shelter;
11. Elevation drawings of any buildings designed to serve the tower;
12. Access road, width and construction standards along with access easement;
13. Any lighting proposed to be located on the tower; and
14. The applicant shall demonstrate how the visual impact of the proposed towers and attached antennas will be reduced through the use of color or other techniques.

D. Procedures:

1. The application materials shall be reviewed for completeness by the Zoning Administrator or their agent. An application shall be considered complete if it contains all of the information contained in Sections 3.36 B. 2. and 3. The Zoning Administrator shall notify the applicant in writing of any missing items;
2. Upon receipt of a completed application, the Zoning Administrator shall make a decision regarding approval or denial; and
3. Upon approval of the application, the applicant may proceed to obtain the applicable building and electrical permits.

# **ARTICLE IV**

## **RR RURAL RESIDENTIAL DISTRICT**

### **SECTION 4.01 INTENT AND PURPOSE**

This District is intended for rural residential uses. The purpose of this District is to preserve the rural residential character of the lands within this District, minimizing public service costs, limiting urban influence, and preserving open space. Careful consideration is given to environmental concerns related to groundwater quality, which might be threatened by excessive development, high water tables, or other conditions, and other related issues pertaining to development in rural areas with limited public services. The requirements of the Ordinance are in addition to other ordinance provisions including but not limited to the “Shorelands Protection and Management Act,” the Sand Dune Protection and Management Act, the “Wetlands Protection Act” and the “Clean Water Act”, as amended.

### **SECTION 4.02 USES PERMITTED BY RIGHT**

Land and/or buildings in the R-R District may be used for the following purposes as Uses Permitted by Right:

- A. Single-family dwellings.
- B. Home Occupations in accordance with the General Provisions requirements of this ordinance.
- C. Family child care home.
- D. Accessory buildings, structures and uses, as regulated by the General Provisions requirements of this ordinance.
- E. On Site Use Wind Energy System 65 feet or less in total height.
- F. Wireless communication towers and antennas which do not exceed a height of fifty feet as regulated by Section 3.35 of this ordinance and;
- G. Existing wireless communication towers and antennas exceeding a height of fifty feet as regulated by Section 3.36 of this ordinance.

### **SECTION 4.03 USES PERMITTED BY SPECIAL LAND USE**

Land and/or buildings in the R-R District may be used for the following purposes following review by the Planning Commission as a Special Land Use as regulated by this ordinance.

- A. Removal and processing of top soil, stone, rock, sand, gravel, lime or other soil or hard mineral resources.
- B. Roadside stands.
- C. Greenhouses and nurseries.
- D. Bed and Breakfast establishments.
- E. Public parks, playgrounds and cemeteries.
- F. Golf courses and riding stables.
- G. Game preserves and gun clubs.
- H. Radio, telephone, and television transmitting buildings, and related towers, and/or towers for commercial wireless telecommunication facilities, wireless communications equipment and wireless communications support structures, exceeding fifty feet in height.

- I. Utility and public service buildings, without storage yards, but not including essential public services as poles, wires, and underground utility systems.
- J. Schools, Churches, Libraries.
- K. Group child care home.
- L. Kennels.
- M. Public and private campgrounds.
- N. Cervidae facilities.
- O. Blueberry farming.
- P. Any Wind Energy System which is greater than 65 feet in height.
- Q. Met Tower.
- R. Ponds exceeding one (1) acre of surface water.

**SECTION 4.04 SITE DEVELOPMENT STANDARDS**

No main building or principal structure, nor the enlargement of any main building or principle structure, shall be hereafter erected unless the following requirements are met and maintained in connection with such building, structure, or enlargement.

Front Yard Setback	One-hundred (100) feet on arterial and residential streets or less if the average setback requirements apply. See General Provisions (Average Setback Lines).  For corner lots, the side setback facing the street shall be one-hundred (100) feet.
Side Yard Setback	Thirty (30) feet as measured to the foundation.
Rear Yard Setback	Fifty (50) feet.
Maximum Building Height	Thirty-five (35) feet measured from the grade to the highest point of the roof surface in a flat roof; to the deck of mansard roofs; and to the mean height level between the eaves and ridge of gable, hip or gambrel roofs.
Lot Coverage	Fifteen (15%) percent.
Minimum Lot Area	Five (5) acres.
Minimum Lot Width	Two Hundred Thirty-Five (235) Feet.
Minimum Dwelling Unit Floor Area	1,120 square feet GFA/960 square feet GFA on ground floor
Streams, Creeks and Lakes	No buildings shall be permitted within one hundred (100) feet from the normal ordinary high-water mark of any streams, creeks, lakes or similar bodies of water. Also, no septic tanks, tile fields or similar waste facility shall be permitted within one hundred (100) feet from the normal ordinary high-water mark of any streams, creeks, lakes or similar bodies of water unless specifically mandated by the County Environmental Health Officer.

# **ARTICLE IVa**

## **AG AGRICULTURAL OVERLAY DISTRICT**

### **SECTION 4.01a INTENT AND PURPOSE**

The Agricultural Overlay Zoning District includes areas of the township where agricultural uses exist and should be preserved or encouraged or are suitable for such operations. The intent and purpose of this Article is to regulate farms and farm operations as those terms are defined in the Michigan Right to Farm Act (Sections 286.471 – 286.474 of the Michigan Compiled Laws) (“Act”) which sets forth the powers and duties of the Michigan Department of Agriculture (MDA) and the Michigan Commission of Agriculture (MCA), including their authority to adopt generally accepted agricultural and management practices (GAAMPs). The provisions of this Article are not intended to extend or revise the Act or the GAAMPs or conflict in any manner with the Act or the GAAMPs. The terms used in this Article shall have the same meaning as set forth in the Act.

### **SECTION 4.02a LIMITATIONS ON FARMING OPERATIONS**

All agricultural operations carried on within the district must comply with the applicable GAAMPs.

### **SECTION 4.03a USES PERMITTED BY RIGHT**

1. Permitted uses within this district are the same as those permitted in the underlying zoning district.
2. Agricultural uses including cervidae facilities.

### **SECTION 4.04a USES PERMITTED BY SPECIAL LAND USE**

1. Uses permitted by special land use are the same as those permitted in the underlying zoning district.
2. Intensive Livestock Operations.

### **SECTION 4.05a SITE DEVELOPMENT STANDARDS**

1. For uses permitted in the underlying zoning district, and except as otherwise indicated, the site development standards shall be the same as those set forth in the underlying zoning district.
2. For agricultural uses and Intensive Livestock Operations, the minimum lot area shall be forty (40) acres, and all buildings used in connection with such operations shall be located not less than 200 feet from any lot line.

# **ARTICLE V**

## **LDR LOW DENSITY RESIDENTIAL DISTRICT**

### **SECTION 5.01 INTENT AND PURPOSE**

This District is intended for residential and other associated uses, including certain related non-residential uses. The purpose of this District is to preserve the residential character of the lands within this District, while allowing a greater density of development yet minimizing public service costs, lessening urban influence, and preserving some degree of open space. Careful consideration is given to environmental concerns related to groundwater quality, which might be threatened by excessive development, high water tables, or other conditions, and other related issues pertaining to development in areas with limited public services. The requirements of the Ordinance are in addition to other ordinance provisions including but not limited to the “Shorelands Protection and Management Act,” the Sand Dune Protection and Management Act, the “Wetlands Protection Act” and the “Clean Water Act”, as amended.

### **SECTION 5.02 USES PERMITTED BY RIGHT**

Land and/or buildings in the LDR District may be used for the following purposes as Uses Permitted by Right:

- A. Single-family dwellings.
- B. Family child care home.
- C. Home Occupations in accordance with the General Provisions requirements of this ordinance.
- D. Accessory buildings, structures and uses, as regulated by the General Provisions of this ordinance.
- E. On Site Use Wind Energy System 65 feet or less in total height.
- F. Wireless Communication towers and antennas which do not exceed a height of fifty feet as regulated by Section 3.35 of this ordinance and;
- G. Existing Wireless Communication towers and antennas exceeding a height of fifty feet as regulated by Section 3.36 of this ordinance.

### **SECTION 5.03 USES PERMITTED BY SPECIAL LAND USE**

Land and/or buildings in the LDR District may be used for the following purposes following review by the Planning Commission as a Special Land Use as regulated by this ordinance.

- A. Group child care home.
- B. Public parks, playgrounds, and cemeteries.
- C. Bed and Breakfast establishments.
- D. Schools, churches, libraries, and Community Center buildings.
- E. Golf courses and riding stables.
- F. Radio, telephone, and television transmitting buildings, and related towers, and/or towers for Commercial Wireless Telecommunication facilities, Wireless Communications equipment and Wireless Communications support structures, exceeding fifty feet in height.
- G. Greenhouses and Nurseries.
- H. Any Wind Energy System which is greater than 65 feet in height.



- I. Met Tower.
- J. Ponds exceeding one (1) acre of surface area.

**SECTION 5.04 SITE DEVELOPMENT STANDARDS**

No main building or principle structure, nor the enlargement of any main building or principle structure, shall be hereafter erected unless the following requirements are met and maintained in connection with such building, structure, or enlargement.

Front Yard Setback	One-hundred (100) feet on arterial and residential streets or less if the average setback requirements apply. See General Provisions (Average Setback Lines).  For corner lots, the side setback facing the street shall be seventy-five (75) feet.
Side Yard Setback	Twenty-five (25) feet as measured to the foundation.
Rear Yard Setback	Fifty (50) feet except on lakefront lots then see General Provisions (Average Setback Lines).
Maximum Building Height	Thirty-five (35) feet measured from the grade to the highest point of the roof surface in a flat roof; to the deck of mansard roofs; and to the mean height level between the eaves and ridge of gable, hip or gambrel roofs.
Lot Coverage	Fifteen (15%) percent.
Minimum Lot Area	Two and a half (2 ½) acres.
Minimum Lot Width	One hundred sixty-five (165) feet.
Minimum Dwelling Unit Floor Area	1120 square feet GFA/ 960 square feet GFA on ground floor.
Streams, Creeks and Lakes	No buildings shall be permitted within one hundred (100) feet from the normal ordinary high water mark of any streams, creeks, lakes or similar bodies of water. Also, no septic tanks, tile fields or similar waste facility shall be permitted within one hundred (100) feet from the normal ordinary high water mark of any streams, creeks, lakes or similar bodies of water unless specifically mandated by the County Environmental Health Officer.

# **ARTICLE VI**

## **MDR MEDIUM DENSITY RESIDENTIAL DISTRICT**

### **SECTION 6.01 INTENT AND PURPOSE**

This District is intended for residential and other associated uses, including certain related non-residential uses. The purpose of this District is to preserve the residential character of the lands within this District, while allowing a greater density of development yet minimizing public service costs, lessening urban influence, and preserving some degree of open space. Careful consideration is given to environmental concerns related to groundwater quality, which might be threatened by excessive development, high water tables, or other conditions, and other related issues pertaining to development in areas with limited public services. The requirements of the Ordinance are in addition to other ordinance provisions including but not limited to the “Shorelands Protection and Management Act,” the Sand Dune Protection and Management Act, the “Wetlands Protection Act” and the “Clean Water Act”, as amended.

### **SECTION 6.02 USES PERMITTED BY RIGHT**

Land and/or buildings in the MDR District may be used for the following purposes as Uses Permitted by Right:

- A. Single-family dwellings.
- B. Family child care home.
- C. Home Occupations in accordance with the General Provisions requirements of this ordinance.
- D. Accessory Buildings, structures and uses, as regulated by the General Provisions of this ordinance.
- E. On Site Use Wind Energy System 65 feet or less in total height.

### **SECTION 6.03 USES PERMITTED BY SPECIAL LAND USE**

Land and/or buildings in the MDR District may be used for the following purposes following review by the Planning Commission as a Special Land Use, as regulated by this ordinance.

- A. Group child care home.
- B. Public parks, playgrounds, and cemeteries.
- C. Bed and Breakfast establishments.
- D. Schools, churches, libraries, and community center buildings.
- E. Golf courses and riding stables.
- F. Any Wind Energy System which is greater than 65 feet in height.
- G. Met Tower.
- H. Ponds exceeding one (1) acre of surface area.

**SECTION 6.04 SITE DEVELOPMENT STANDARDS**

No main building or principal structure, nor the enlargement of any main building or principal structure, shall be hereafter erected unless the following requirements are met and maintained in connection with such building, structure, or enlargement.

Front Yard Setback	<p>One-hundred (100) feet on arterial streets and fifty (50) feet on residential streets or less if the average setback requirements apply. See General Provisions (Average Setback Lines).</p> <p>For corner lots, the side setback facing the street shall be fifty (50) feet.</p>	
Side Yard Setback	Ten (10) feet as measured to the foundation.	
Rear Yard Setback	Fifty (50) feet except on lakefront lots then see General Provisions (Average Setback Lines).	
Maximum Building Height	Thirty-five (35) feet measured from the grade to the highest point of the roof surface in a flat roof; to the deck of mansard roofs; and to the mean height level between the eaves and ridge of gable, hip or gambrel roofs.	
Lot Coverage	Fifteen (15%) percent.	
Minimum Lot Area	Residential Uses	Two (2) acres.
	Nonresidential Uses	Two (2) acres.
Minimum Lot Width	One hundred fifty (150) feet.	
Minimum Dwelling Unit Floor Area	1120 square feet GFA / 960 square feet GFA on ground floor.	
Streams, Creeks and Lakes	<p>No buildings shall be permitted within one hundred (100) feet from the normal ordinary highwater mark of any streams, creeks, lakes or similar bodies of water. Also, no septic tanks, tile fields or similar waste facility shall be permitted within one hundred (100) feet from the normal ordinary high-water mark of any streams, creeks, lakes or similar bodies of water unless specifically mandated by the County Environmental Health Officer.</p>	

# ARTICLE VIa

## LAKE MICHIGAN SHORELINE DISTRICT

### SECTION 6.01a PURPOSE, INTENT AND COVERED AREAS

The PURPOSE of the Lake Michigan Shoreline District is to regulate and protect the unique natural qualities, environmentally sensitive areas, hydrologic functions, and significant natural features located near Lake Michigan and to preserve the low-density residential and natural character of the area through lessening adverse urban influences and preserving open space. The requirements of the Ordinance are in addition to other ordinance provisions including but not limited to the "Shorelands Protection and Management Act," the "Sand Dune Protection and Management Act," the "Wetlands Protection Act," and the "Clean Water Act," as amended. Should the requirements of this district conflict with, vary from, or differ from the requirements of other portions of this Ordinance, the stricter or more stringent ordinance provision shall apply.

The purpose of this district is based on the recognition that:

1. The economic and environmental well being and health, safety, and general welfare of Fruitland Township is substantially dependent on and connected with the preservation of its Lake Michigan shoreline area.
2. The shoreline area has unique physical, biological, economic, and social attributes.
3. Future land development and redevelopment should not be conducted at the expense of these very positive lake shoreline attributes.
4. Property values will be enhanced as the natural features of the shoreline area are protected and preserved.
5. Pollution, impairment or destruction of the shoreline area and the adjacent dunes, bottomlands, aquifers, and waters of Lake Michigan should be prevented.

The INTENT of this district is to protect the shoreline and wetlands to the maximum extent possible, while allowing a reasonable use of the property. The restrictions herein contained are intended to:

1. Effectively control and prevent the unreasonable development of shorelands and nearby areas.
2. Protect both surface and ground water quality.
3. Prevent flooding.
4. Ensure that any structure will not itself contribute to erosion problems along the shoreline.
5. Preserve the dunes in their natural state and restrict development of them.
6. Encourage the design, construction, and alteration of dwellings to be in harmony with the natural environment.
7. Protect the natural beauty and natural function of Fruitland Township's shore area environments.
8. Minimize the financial hardships that individuals and local governmental units suffer due to erosion.
9. Prevent threats to the public safety, health and welfare of the residents and property owners within this overlay district.

10. Minimize conflict between the occupants and users of adjoining properties and between various uses and users.
11. Prevent and protect against the overuse of the Lake Michigan shoreline and nearby areas, and reasonably regulate access to Lake Michigan.
12. Implement relevant opinions of Fruitland Township's Master Plan.

The COVERED AREAS of the Lake Michigan Shoreline District include the shorelands along Lake Michigan and nearby areas, and generally applies to properties from the Lake Michigan water's edge to the centerline of the road right-of-way of Scenic Drive and to the centerline of Murray Road from River Road as extended west to Lake Michigan north to the White Lake Channel. This applies to the following portions of Fruitland Township:

That pan of Sections 2, I 1, 12, 13, 24 and 25 of Town I 1 North, Range 18 West lying Westerly and Southerly of the centerline of Murray Road and Scenic Drive, together with that part of Sections 30 and 31 of Town I I North, Range 17 West lying Westerly of the centerline of Scenic Drive.

#### SECTION 6.02a USES PERMITTED BY RIGHT

Land and/or buildings in the Lake Michigan Shoreline District may be used for the following purposes as Uses Permitted by Right:

- A. Single-family dwellings.
- B. Family child care home.
- C. Home Occupations in accordance with the General Provisions requirements of this ordinance.
- D. Accessory buildings, structures and uses, as regulated by the General Provisions requirements of this ordinance.
- E. On Site Use Wind Energy System 65 feet or less in total height.

#### SECTION 6.03a USES PERMITTED BY SPECIAL LAND USE

Land and/or buildings in the Lake Michigan Shoreline District may be used for the following purposes following review by the Planning Commission as a Special Land Use, as regulated by this ordinance.

- A. Bed and Breakfast establishments.
- B. Public parks and playgrounds.
- C. Group child care home.
- D. Any Wind Energy System which is greater than 65 feet in height.
- E. Met Tower.

#### SECTION 6.04a SITE DEVELOPMENT STANDARDS

1. No main building or principal structure, nor the enlargement of any main building or principal structure, shall be hereafter erected unless the following requirements are met and maintained in connection with such building, structure, or enlargement.

Front Yard Setback	One-hundred (100) feet on arterial streets and fifty (50) feet on residential streets or less if the average setback requirements apply. See General Provisions (Average Setback Lines).  For corner lots, the side setback facing the street shall be fi 50 feet.
Side Yard Setback	Ten (10) feet as measured to the foundation.
Rear Yard Setback]Non-Lakefront Lot	Fifty (50) feet.
Rear Yard Setback/Lakefront Lot	See General Provisions Avera e Setback Lines.
Maximum Building Height	Thirty-five (35) feet measured from the average grade.
Lot Coverage	Twenty-five (25%) percent.
Minimum Lot Area	Residential Uses One acre (43,560 square feet)
	Non Residential Uses Two (2) acres
Required Lake Frontage and Lot Width	There shall not be less than one hundred five (105) feet of Lake Michigan frontage, as measured perpendicular or as close to perpendicular as possible to the side lot lines at both the crest of the bluff and at the ordinary high water mark of 580.5 IGLD 1985, for each single-family dwelling, dwelling unit, cottage, any other such dwelling, lot, or parcel with lake frontage. Each lot (whether or not it has lake frontage) shall have a minimum width of one hundred five (105) feet, which minimum lot width shall be maintained along the entire length/depth of the lot or parcel.
Minimum Dwelling Unit Floor Area	1,120 square feet GFA/960 square feet GFA on ground floor.
Lot Compliance	No waterfront lot or parcel shall be created unless said lot or parcel meets the minimum lot width, area, and dimensional standards and requirements of this district, in addition to the above-mentioned lake front requirements.
Streams, Creeks and Lakes	No buildings shall be permitted within one hundred (100) feet from the normal ordinary high water mark of any streams, creeks, lakes or similar bodies of water. Also, no septic tanks, tile fields or similar waste facility shall be permitted within one hundred (100) feet from the normal ordinary high water mark of any streams, creeks, lakes or similar bodies of water unless specifically mandated by the County Environmental Health Officer.

2. Site plan review and recommendation for approval by the Planning Commission is required for all Subdivisions (Plats) and Condominiums, and for Land Divisions resulting in five (5) or more parcels.

3. Application of Lake Frontage Requirement. The required lake frontage shall apply to all lots and parcels on or abutting Lake Michigan shoreline or waters of the lake regardless of whether access to the lake or use of the lake is by common-fee, joint ownership, easement, park, single-fee ownership, condominium arrangement, association, license, lease or other such means.
4. All structures and buildings installed or built (or expanded) within the Lake Michigan Shoreline Overlay District shall conform to the following standards related to the natural topography and vegetation of the bluffs and dunes.
  - a) No structures or buildings shall be built or installed lakeward of the bluff line except for wooden stairs and platforms, an elevator, incline lift, residential stairway lift, or residential platform lift which provide beach access and comply with the requirements of Michigan Law, The Elevator Safety Board and the Department of Environmental Quality (DEQ). All such Items (including stairs and platforms, an elevator, incline lift, residential stairway lift, or residential platform lift) shall be approved by the Zoning Administrator. For the purposes of this section the term elevator and lifts are used as defined by the Michigan Elevator Safety Board under Act 227 of 1967, as amended.
  - b) Any dwelling constructed shall have its lowest floor, including basement, at or above elevation 590.5 feet IGLD 1985. See Section 6.06a hereof.
  - c) On the stabilized natural slopes of the primary dunes and on all secondary dunes where vegetation is firmly rooted and where grades exceed twelve (12%) percent, development shall occur only as follows:
    - i. Where the dwelling is situated on a slope, construction shall be based on platform or other non-distributing building designs. Basements must be fully above grade level permitting full height windows.
    - ii. Building pads are to be limited to a maximum of two thousand (2,000) square feet, including both primary and accessory buildings.
  - d) On the stabilized natural slopes of the secondary dunes, where grades are less than twelve (12%) percent, development may follow conventional construction practices subject to the provisions in this subsection D, as specified below.

Design and construction of all structures shall, to the greatest extent possible:

    - i. Preserve the natural vegetation holding the sand.
    - ii. Fit structures to the natural contour of the land, so as to minimize land disturbing activities and site work.
    - iii. Shape contours so as to merge with the existing terrain, where grading is necessary.
    - iv. Avoid steep banks and sharp corners.
    - v. Disperse runoff, or where intensive runoff is unavoidable, utilize intensive vegetation stabilization plantings or other means and materials to prevent erosion.
5. Tree cutting and/or removal of shore cover.

- a) Natural vegetation shall be preserved as far as practical and where removed shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion and preserving natural beauty.
  - b) Natural vegetation shall not be cleared, cut, nor destroyed from more than thirty (30%) percent of the total setback area. The removal of such thirty (30%) percent shall not create clear-cut openings totaling more than thirty (30) feet for each one hundred five (105) feet of perpendicular lot width.
- 6. No sand or soil shall be unreasonably removed or relocated, and no bluff or sand dune shall be unreasonably cut down in elevation. Fill shall not unreasonably raise the natural grade. Fill permit and soil erosion control permits shall be obtained as necessary from the appropriate local, county, state, or federal entities.
  - 7. Private Streets are prohibited within the Lake Michigan Shoreline District.
  - 8. Shared Driveways: Where more than one (1) dwelling unit is to be constructed (and where allowed by this Ordinance), common driveway facilities shall be considered to reduce the amount of impervious surfaces and the amount of land that is disturbed.
  - 9. No Open Space Planned Unit Developments allowed in this district.

**SECTION 6.05a WATERFRONT ACCESS, USE, AND RELATED MATTERS**

- 1. Waterfront Access (also commonly referred to as funneling or key-holing) is defined as:
  - a) The use of a Lake Michigan waterfront property, parcel or lot for lake and/or beach access or use by the occupants or owners of non-waterfront property, parcels or lots; or
  - b) The use of a Lake Michigan waterfront property, parcel, or lot by more than one family by means of an easement, park, common area, joint ownership property, common fee ownership, single fee ownership, condominium arrangement, association, lease, license, or other means.
- 2. Waterfront Access Controls
  - a) Funneling can be harmful to the public health, safety and welfare and constitutes an improper use of land and natural resources in that it causes accelerated erosion, destruction to dune habitat, overcrowding of lakes, streams and lands adjacent to them, contributes to pollution and degradation of public waters, creates hazards to life and property by increasing the risk of boating accidents, adversely affects the recreational experiences of both riparian's and the general public, causes conflict among users, and adversely impacts the property values of shoreline properties located near funnel developments.
  - b) It is the declared purpose of this Section 6.05a to regulate waterfront access and use so as to protect the health, safety and general welfare of the citizens of Fruitland Township, and in particular those within this overlay district, and carry out the intent of the Township Zoning Act.



- c) Please see Section 6.06a hereof with regard to the measurement 580.5 IGLD 1985 and other terms contained in this Section 6.05a.

### 3. Waterfront Access Standards

- a) Any residential development or group of lots or properties in the Lake Michigan Shoreline District which has or shares a Lake Michigan common area, property, or lot shall not allow more than one (1) dwelling unit to the use of each one hundred five (105) feet of Lake Michigan frontage in the common lakefront area as measured perpendicular to the side lot lines (or nearly perpendicular as possible) at the ordinary high water mark of 580.5 IGLD 1985 and also at the crest of the bluff. This property must be used exclusively for shared waterfront access (or use) for one single family dwelling, but not both. It shall be a buildable area and must also meet the minimum standards and dimensions of the underlying Zoning District within which it is located.

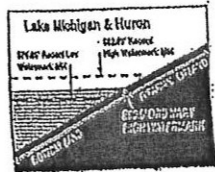
In addition to the special requirements of these waterfront access standards, the common lakefront area must also meet all other requirements of a buildable lot, parcel, or condominium unit. Access to the Lake Michigan shoreline may be shared only by the record owners of lots or condominium units of a development or land situated or residing on the Lake Michigan side of Scenic Drive or Murray Road. A shared/common lakefront area must be exclusively dedicated to common use only, with no principal buildings or units permitted thereon (i.e., the land must remain vacant). The lake frontage of the common lakefront area must be defined /measured along the Ordinary High Water Mark of 580.5 IGLD 1985.

These restrictions shall apply to any lot, parcel, or property regardless of whether access to the water shall be gained by easement, common fee ownership, single fee ownership, association arrangement, joint ownership, lease, general common element assignment by site condominium or other condominium arrangement, or other means.

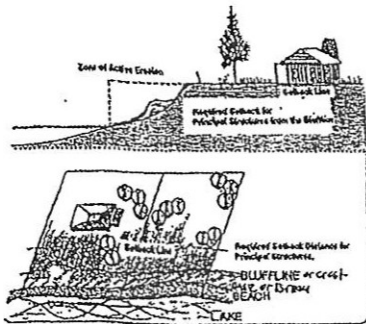
- b) On common waterfront sites with lake frontage greater than three hundred (300) feet, vegetative buffers may be established of sufficient size and location to afford adequate screening from adjacent properties.
- c) No boats or watercraft shall be kept, moored, or stored on, along, or at the shoreline or lakefront (i.e., between the lake waters and the base of the dune) or on any lot or parcel which is a common area, private park, easement, or other joint use property. No facilities for launching watercraft from the common waterfront site or waterfront access property shall be permitted.
- d) Overnight vehicle parking and the use of camping tents, motor homes and trailers shall not occur on a common waterfront site or waterfront access property.
- e) In addition, the following overall requirements shall also be applicable:
  - i. There shall be at least one hundred five (105) feet of Lake Michigan frontage as measured along the ordinary high-water mark of the lake for each single-family home, dwelling unit, cottage, condominium unit, site condominium unit, or apartment unit utilizing or accessing the lake. The lot width as measured

perpendicular to the side lot lines (or as nearly perpendicular as possible) at the ordinary high water mark of 580.5 IGLD 1985 shall be at least one hundred five (105) feet.

SECTION 6.06a ILLUSTRATIONS



ORDINARY HIGH WATERMARK AS SET BY ACT 247 P.A. 1955 ON THE GREAT LAKES



- Adopted: July 26, 2006
- Amended: October 17, 2006
- Amended: March 19, 2007
- Amended: September 17, 2007
- Amended: December 17, 2007
- Amended: May 18, 2009
- Amended: January 18, 2010
- Amended: February 11, 2013
- Amended: August 21, 2017
- Amended: September 16, 2019

# **ARTICLE VII**

## **MHDR MEDIUM HIGH DENSITY RESIDENTIAL DISTRICT**

### **SECTION 7.01 INTENT AND PURPOSE**

This District is intended for residential and other associated uses, including certain related non-residential uses. The purpose of this District is to preserve the residential character of the lands within this District, while allowing a greater density of development yet minimizing public service costs, lessening urban influence, and preserving some degree of open space. Careful consideration is given to environmental concerns related to groundwater quality, which might be threatened by excessive development, high water tables, or other conditions, and other related issues pertaining to development in areas with limited public services. The requirements of the Ordinance are in addition to other ordinance provisions including but not limited to the “Shorelands Protection and Management Act,” the Sand Dune Protection and Management Act, the “Wetlands Protection Act” and the “Clean Water Act”, as amended.

### **SECTION 7.02 USES PERMITTED BY RIGHT**

Land and/or buildings in the MHDR District may be used for the following purposes as Uses Permitted by Right:

- A. Single-family dwellings.
- B. Family child care home.
- C. Home Occupations in accordance with the General Provisions requirements of this ordinance.
- D. Accessory buildings, structures and uses, as regulated by the General Provisions requirements of this ordinance.
- E. On Site Use Wind Energy System 65 feet or less in total height.

### **SECTION 7.03 USES PERMITTED BY SPECIAL LAND USE**

Land and/or buildings in the MHDR District may be used for the following purposes following review by the Planning Commission as a Special Land Use, as regulated by this ordinance.

- A. Bed and Breakfast establishments.
- B. Public parks, playgrounds, and cemeteries.
- C. Schools, churches, libraries, and Community Center buildings.
- D. Group child care home.
- E. Any Wind Energy System which is greater than 65 feet in height.
- F. Met Tower.
- G. Ponds exceeding one (1) acre of surface area.

**SECTION 7.04 SITE DEVELOPMENT STANDARDS**

No main building or principle structure, nor enlargement of any main building or principle structure, shall be hereafter erected unless the following requirements are met and maintained in connection with such building, structure, or enlargement.

Front Yard Setback	Residential Uses	One-hundred (100) feet on arterial streets and fifty (50) feet on residential streets or less if the average setback requirements apply. See General Provisions (Average Setback Lines).  For corner lots, the side setback facing the street shall be fifty (50) feet.
	Nonresidential Uses	One Hundred (100) feet.
Side Yard Setback	Residential Uses	Ten (10) feet as measured to the foundation.
	Nonresidential Uses	Thirty (30) feet as measured to the foundation.
Rear Yard Setback	Fifty (50) feet.	
Maximum Building Height	Thirty-five (35) feet measured from the average grade.	
Lot Coverage	Twenty-five (25%) percent.	
Minimum Lot Area	Residential Uses	Thirty thousand (30,000) square feet.
	Nonresidential Uses	Two (2) acres.
Minimum Lot Width	Residential Uses	One Hundred (100) feet.
	Nonresidential Uses	Two Hundred (200) feet.
Minimum Dwelling Unit Floor Area	1120 square feet GFA / 960 square feet GFA on ground floor.	
Streams, Creeks and Lakes	No buildings shall be permitted within one hundred (100) feet from the normal ordinary high water mark of any streams, creeks, lakes or similar bodies of water. Also, no septic tanks, tile fields or similar waste facility shall be permitted within one hundred (100) feet from the normal ordinary high water mark of any streams, creeks, lakes or similar bodies of water unless specifically mandated by the County Environmental Health Officer.	

**ARTICLE VIII  
HDR HIGH DENSITY RESIDENTIAL DISTRICT**

**SECTION 8.01 INTENT AND PURPOSE**

This District is intended for residential and other associated uses, including certain related non-residential uses. The overall purpose of this District is to provide additional housing opportunities by providing a variety of housing options, including single-family dwellings at greater densities, and multiple-family dwellings. Careful consideration is given to environmental concerns related to groundwater quality, which might be threatened by excessive development, high water tables, or other conditions, and other related issues pertaining to development in areas with limited public services. The requirements of the Ordinance are in addition to other ordinance provisions including but not limited to the “Shorelands Protection and Management Act,” the Sand Dune Protection and Management Act, the “Wetlands Protection Act” and the “Clean Water Act”, as amended.

**SECTION 8.02 USES PERMITTED BY RIGHT**

Land and/or buildings in the HDR District may be used for the following purposes as Uses Permitted by Right:

- A. Single-family dwellings.
- B. Two (2) family dwellings.
- C. Family child care home.
- D. Home Occupations in accordance with the General Provisions requirements of this ordinance.
- E. Accessory buildings, structures and uses, as regulated by the General Provisions requirements of this ordinance.
- F. On Site Use Wind Energy System 65 feet or less in total height.

**SECTION 8.03 USES PERMITTED BY SPECIAL LAND USE**

Land and/or buildings in the HDR District may be used for the following purposes following review by the Planning Commission as a Special Land Use as regulated by this ordinance.

- A. Multiple-family dwellings.
- B. Group child care home.
- C. Public parks, playgrounds, and cemeteries.
- D. Bed and Breakfast establishments.
- E. Schools, churches, libraries, and Community Center buildings.
- F. Any Wind Energy System which is greater than 65 feet in height.
- G. Met Tower.

**SECTION 8.04**

**SITE DEVELOPMENT STANDARDS**

No main building or principle structure, nor the enlargement of any main building or principle structure, shall be hereafter erected unless the following requirements are met and maintained in connection with such building, structure, or enlargement.

Front Yard Setback	Residential Uses	One-hundred (100) feet on arterial streets and fifty (50) feet on residential streets or less if the average setback requirements apply. See General Provisions (Average Setback Lines).  For corner lots, the side setback facing the street shall be fifty (50) feet.
	Nonresidential Uses	One hundred (100) feet.
Side Yard Setback	Single and Two-Family Dwellings	Ten (10) feet as measured to the foundation.
	Multiple-Family Dwellings	Thirty (30) feet as measured to the foundation.
	Nonresidential Buildings	Thirty (30) feet as measured to the foundation.
Rear Yard Setback	Thirty (30) feet.	
Maximum Building Height	Thirty-five (35) feet measured from the average grade.	
Lot Coverage	Fifteen (15%) percent.	
Minimum Lot Area per Dwelling Unit	Single-Family Dwelling	Twenty thousand (20,000) square feet.
	Two-Family Dwelling	One (1) acre (43,560 square feet).
	Multiple-Family Dwellings	Two (2) acres for first four (4) Units, plus 2,500 square feet for each unit over the first four. Overall net density shall not exceed five (5) units per acre.
	Nonresidential Uses	Two (2) acres.
Minimum Lot Width	Single and Two-Family Dwellings	Ninety (90) feet.
	Multiple-Family Dwellings	Two hundred (200) feet.

Minimum Floor Area	Single and Two-Family Dwellings	1120 square feet GFA / 960 square feet GFA on ground floor of each dwelling.
	Multiple-Family Dwellings	Eight hundred (800) square feet UFA per unit, plus four hundred (400) square feet of UFA for each bedroom over two (2).
Streams, Creeks and Lakes	No buildings shall be permitted within one hundred (100) feet from the normal ordinary high water mark of any streams, creeks, lakes or similar bodies of water. Also, no septic tanks, tile fields or similar waste facility shall be permitted within one hundred (100) feet from the normal ordinary high water mark of any streams, creeks, lakes or similar bodies of water unless specifically mandated by the County Environmental Health Officer.	

# **ARTICLE VIIIa**

## **INLAND LAKES DISTRICT**

### **SECTION 8.01a PURPOSE, INTENT AND COVERED AREAS**

The PURPOSE of the Inland Lakes District is to recognize, preserve and protect the environmental, aesthetic and hydrologic functions; the public health, safety and welfare and to prevent and control water pollution. The requirements of the Ordinance are in addition to other ordinance provisions including but not limited to the “Shorelands Protection and Management Act,” the Sand Dune Protection and Management Act, the “Wetlands Protection Act” and the “Clean Water Act”, as amended. The purpose is based on the recognition that:

1. The shoreline area has unique physical, biological, economic, and social attributes including recreation, water quality protection, pollution mitigation, and control of erosion and flooding.
2. Wetlands and shorelines, ecologically speaking, are synonymous and the environmental well being and health, safety and general welfare of Fruitland Township is substantially dependent on and connected with the preservation of the shoreland areas.
3. Future land development and redevelopment should not be conducted at the expense of positive lakeshore attributes.
4. Property values will be enhanced as the natural features of the shoreline areas are protected and preserved.
5. Development issues have impacted shoreline habitat areas; the loss of vegetation and “cleaned and groomed shorelines make erosion more likely, eliminates habitat corridors, and diminishes fish and wildlife populations.
6. White Lake is a federally designated “Area of Concern” and impact from development should not override the benefits achieved to date from sediment clean-ups and site restoration.

The INTENT of this district is to protect the Inland Lakes and Wetlands to the maximum extent possible, while allowing a reasonable use of the property. The restrictions contained are intended to:

1. Effectively control and prevent the unreasonable development of shorelands and nearby areas.
2. Protect both surface and ground water.
3. Prevent flooding.
4. Minimize the financial hardships that individuals and local governmental units suffer due to erosion.
5. Prevent and protect against the overuse of the shoreline and nearby areas, and reasonably regulate lake access.
6. Implement relevant portions of the Fruitland Township’s Master Plan.
7. Prevent pollution and nutrient loading which results from non-maintained or failing septic systems; improper lawn fertilizing; and composting too close to the shore.

The COVERED AREAS of the Inland Lakes District are defined as:

Section 5, Town 11 North, Range 17 West  
All parcels lying Northwesterly of South Shore Drive.

Section 6, Town 11 North, Range 17 West  
All parcels lying west of the East line of Section 6 and North of the South line of Section 6.



Section 7, Town 11 North, Range 17 West  
 All parcels lying Northwesterly and Northerly of South Shore Drive.

Section 12, Town 11 North, Range 18 West  
 All parcels lying Northerly and Northwesterly of South Shore Drive and Northerly and Easterly of Murray except the Waterfront Marine District.

Section 11, Town 11 North, Range 18 West  
 All parcels lying Easterly of Murray Road.

Section 2, Town 11 North, Range 18 West  
 All parcels lying Easterly of Murray Road and North of Dock Road and North of the walkway West of Dock Road.

Section 19, Town 11 North, Range 17 West  
 All parcels in Government Lots 2, 3 and 4 contiguous to Duck Lake.

Section 24, Town 11 North, Range 18 West  
 All parcels in Government Lots 1 and 2 contiguous to Duck Lake. Except that part lying North of the Channel connecting Duck Lake to Lake Michigan.

**SECTION 8.02a SITE DEVELOPMENT STANDARDS**

No main building or principal structure, nor enlargement of any main building or principal structure, shall be hereafter erected unless the following requirements are met and maintained in connection with such building, structure, or enlargement.

1.

Front Yard Setback	Residential Uses	One-hundred (100) feet on arterial streets and fifty (50) feet on residential streets or less if the average setback requirements apply. See General Provisions (Average Setback Lines).  For corner lots, the side setback facing the street shall be fifty (50) feet.
	Nonresidential Uses	One Hundred (100) feet.
Side Yard Setback	Residential Uses	Ten (10) feet as measured to the foundation.
	Nonresidential Uses	Thirty (30) feet as measured to the foundation.
Rear Yard Setback	See General Provisions (Average Setback Lines).	
Maximum Building Height	Thirty-five (35) feet measured from the average grade.	
Lot Coverage	Twenty-five (25%) percent.	
Minimum Lot Area	Residential Uses	Thirty thousand (30,000) square feet.
	Nonresidential Uses	Two (2) acres.

Minimum Lot Width	Residential Uses	One Hundred (100) feet.
	Nonresidential Uses	Two Hundred (200) feet.
Minimum Dwelling Unit Floor Area	1120 square feet GFA / 960 square feet GFA on ground floor.	
Streams, Creeks and Lakes	No buildings shall be permitted within one hundred (100) feet from the normal ordinary high water mark of any streams, creeks, lakes or similar bodies of water except those building allowed by setback averaging. (See Section 3.31). Also, no septic tanks, tile fields or similar waste facility shall be permitted within one hundred (100) feet from the normal ordinary high water mark of any streams, creeks, lakes or similar bodies of water unless specifically mandated by the County Environmental Health Officer.	

2. Any dwelling permitted along an inland lake shall have its lowest floor, including the basement, constructed at least four (4) feet above the ordinary high-water mark.
3. Historical Setback Line. A proposed building or structure may be located the same distance from a body of water as an existing principal building that has suffered either loss or removal due to casualty or demolition within one (1) year before the submission of an application for a building permit as long as such principal building is or was a lawful nonconforming building. For a demolition, the one (1) year period begins running when the demolition permit was issued. For a casualty, the one (1) year period shall run from the date of the casualty.
4. Site plan review and recommendation for approval by the Planning Commission is required for all Subdivisions (Plats) and Condominiums, and for Land Divisions resulting in five (5) or more parcels.
5. Required Lake Frontage and Lot Width for new lots. There shall not be less than one hundred (100) feet for residential and two hundred (200) feet for non-residential of Duck Lake and White Lake frontage, as measured perpendicular or as close to perpendicular as possible to the side lot lines at the ordinary high water mark of 580.5 IGLD 1985, for each single-family dwelling, dwelling unit, cottage, any other such dwelling, lot, or parcel with lake frontage. Each lot (whether or not it has lake frontage) shall have a minimum width of one hundred (100) feet for residential and two hundred (200) feet for non-residential, which minimum lot width shall be maintained along the entire length/depth of the lot or parcel.
6. Application of Lake Frontage Requirement. The required lake frontage shall apply to all lots and parcels on or abutting Duck Lake and White Lake regardless of whether access to the lake or use of the lake is by common-fee, joint ownership, easement, park, single-fee ownership, condominium arrangement, association, license, lease or other such means.
7. Tree cutting and or removal of shore cover:
  - a. On banks facing the lake, natural vegetation should be kept where possible to help filter nutrients from ground water flowing to the lake and prevent erosion.
  - b. Selective trimming of trees and brush for a filtered view of the lake is preferred as opposed to clear-cutting within one hundred (100) feet inland of the waters edge to provide a buffer strip of deeper-rooted plants for nutrient absorption and erosion control.

- c. Natural vegetation such as trees or shrubs shall be preserved as far as practical and where removed shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion, and preserving natural beauty.
- 8. Private streets prohibited within the Inland Lakes District.
- 9. Shared driveways. Where more than one (1) dwelling is to be constructed (and where allowed by this Ordinance), common driveway facilities shall be considered to reduce the amount of impervious surfaces and the amount of land that is disturbed.
- 10. No Open Space Planned Unit Developments allowed in this district.
- 11. No structures or buildings shall be built or installed lakeward of the bluff line except for wooden stairs and platforms, an elevator, incline lift, residential stairway lift, or residential platform lift which provide beach access and comply with the requirements of Michigan Law, the Elevator Safety Board and the Department of Environmental Quality (DEQ). All such Items (including stairs and platforms, an elevator, incline lift, residential stairway lift, or residential platform lift) shall be approved by the Zoning Administrator. For the purposes of this section the terms elevator and lifts are used as defined by the Michigan Elevator Safety Board under Act 227 of 1967, as amended.

**SECTION 8.03a USES PERMITTED BY RIGHT**

Land and/or buildings in the Inland Lake District may be used for the following purposes as Uses Permitted by Right:

- A. Single-family dwellings.
- B. Family child care home.
- C. Home Occupations in accordance with the General Provisions requirements of this ordinance.
- D. Accessory buildings, structures and uses, as regulated by the General Provisions requirements of this ordinance.
- E. On Site Use Wind Energy System 65 feet or less in total height.

**SECTION 8.04a USES PERMITTED BY SPECIAL LAND USE**

Land and/or buildings in the Inland Lake District may be used for the following purposes following review by the Planning Commission as a Special Land Use, as regulated by this ordinance.

- A. Bed and Breakfast establishments.
- B. Public parks and playgrounds.
- C. Group child care home.
- D. Any Wind Energy System which is greater than 65 feet in height.
- E. Met Tower.
- F. Historic resorts as regulated by Section 14.04 LL herein.

**SECTION 8.05a RIPARIAN ACCESS AND WATERFRONT KEYHOLE DEVELOPMENT**

The following restrictions are intended to provide for controlled development and use of the shoreline areas in a manner which protects the character and quality of the Township’s surface water and shoreline resources; and, to prevent the overcrowding and overuse of shoreline areas and water resources which may result in nuisance conditions, degradation of property values, user conflicts and undesirable impacts

on the public health, safety and general welfare. Waterfront and access standards shall meet the following conditions:

- A. Required Frontage. In all zoning districts there shall not be less than fifty (50) feet of lake or stream frontage, as measured along the high-water mark, per each single-family dwelling, dwelling unit, cottage, condominium unit, apartment unit, lot, back lot or other such dwelling, dwelling unit residence or lot abutting, possessing or accessing water frontage.
- B. Application of Frontage Requirement. The required frontage shall apply to all lots and parcels on or abutting any lake or stream in all zoning districts, regardless of whether access to the lake or stream is by common-fee ownership, easement, park, single-fee ownership, condominium arrangement, association, license, lease or other such means.
- C. Waterfront Access via Easement, Private Park, Etc. (Keyhole Development) No easement, private park, common area, lot or access property abutting or adjoining a lake or stream shall be used to permit access to a lake or stream for more than one (1) Single family dwelling, dwelling unit, cottage, condominium unit, apartment unit, or other such dwelling, dwelling unit, residence or other such or similar use.
- D. Lot Compliance. A separate waterfront lot shall not be created unless said lot meets the minimum lot width and area standards of the zoning district.

**ARTICLE VIIIb  
NORTH DUCK LAKE OVERLAY DISTRICT**

**SECTION 8.01b PURPOSE, INTENT AND COVERED AREAS**

The PURPOSE of the North Duck Lake Overlay District is to recognize, preserve and protect the environmental, aesthetic and hydrologic functions; the public health, safety and welfare and to prevent and control water pollution. The requirements of the Ordinance are in addition to other ordinance provisions including but not limited to the “Shorelands Protection and Management Act,” the Sand Dune Protection and Management Act, the “Wetlands Protection Act” and the “Clean Water Act”, as amended. The purpose is based on the recognition that:

1. The shoreline area has unique physical, biological, economic, and social attributes including recreation, water quality protection, pollution mitigation, and control of erosion and flooding.
2. Wetlands and shorelines, ecologically speaking, are synonymous and the environmental well being and health, safety and general welfare of Fruitland Township is substantially dependent on and connected with the preservation of the shoreland areas.
3. Future land development and redevelopment should not be conducted at the expense of positive lakeshore attributes.
4. Property values will be enhanced as the natural features of the shoreline areas are protected and preserved.
5. Development issues have impacted shoreline habitat areas; the loss of vegetation and “cleaned and groomed shorelines make erosion more likely, eliminates habitat corridors, and diminishes fish and wildlife populations.

The INTENT of this overlay is to protect the North parts of Duck Lake and Wetlands to the maximum extent possible, while allowing a reasonable use of the property. The restrictions contained are intended to:

1. Effectively control and prevent the unreasonable development of shorelands and nearby areas.
2. Protect both surface and ground water.
3. Prevent flooding.
4. Minimize the financial hardships that individuals and local governmental units suffer due to erosion.
5. Prevent and protect against the overuse of the shoreline and nearby areas, and reasonably regulate lake access.
6. Implement relevant portions of the Fruitland Township’s Master Plan.
7. Prevent pollution and nutrient loading which results from non-maintained or failing septic systems; improper lawn fertilizing; and composting too close to the shore.

The COVERED AREAS of the North Duck Lake Overlay District are defined as:

All that part of Duck Lake lying North of and contiguous to the North side of Duck Lake and Government Lot 1 in Sections 18 and 19, Town 11 North, Range 17 West.

**SECTION 8.02b LIMITATIONS ON CONSTRUCTION**

1. Any dwelling permitted along an inland lake shall have its lowest floor, including the basement, constructed at least four (4) feet above the ordinary high water mark.

2. Historical Setback Line. A proposed building or structure may be located the same distance from a body of water as an existing principal building that has suffered either loss or removal due to casualty or demolition within one (1) year before the submission of an application for a building permit as long as such principal building is or was a lawful nonconforming building. For a demolition, the one (1) year period begins running when the demolition permit was issued. For a casualty, the one (1) year period shall run from the date of the casualty.
3. Site plan review for 5-9 units.
4. Required Lake Frontage and Lot Width. There shall not be less than the required lot width of Duck Lake frontage, as measured perpendicular or as close to perpendicular as possible to the side lot lines at the ordinary high water mark of 580.5 IGLD 1985, for each single-family dwelling, dwelling unit, cottage, any other such dwelling, lot, or parcel with lake frontage. Each lot (whether or not it has lake frontage) shall have the required lot width which shall be maintained along the entire length/depth of the lot or parcel.
5. Application of Lake Frontage Requirement. The required lake frontage shall apply to all lots and parcels on or abutting the North parts of Duck Lake regardless of whether access to the lake or use of the lake is by common-fee, joint ownership, easement, park, single-fee ownership, condominium arrangement, association, license, lease or other such means.
6. Tree cutting and or removal of shore cover:
  - a. On banks facing the lake, natural vegetation should be kept where possible to help filter nutrients from ground water flowing to the lake and prevent erosion.
  - b. Selective trimming of trees and brush for a filtered view of the lake is preferred as opposed to clear-cutting within one hundred (100) feet inland of the waters edge to provide a buffer strip of deeper rooted plants for nutrient absorption and erosion control.
  - c. Natural vegetation such as trees or shrubs shall be preserved as far as practical and where removed shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion, and preserving natural beauty.
7. Private streets prohibited within the North Duck Lake Overlay District.
8. Shared driveways. Where more than one (1) dwelling is to be constructed (and where allowed by this Ordinance), common driveway facilities shall be considered to reduce the amount of impervious surfaces and the amount of land that is disturbed.
9. No Open Space Planned Unit Developments allowed in this district.

**SECTION 8.03b USES PERMITTED BY RIGHT**

Land and/or buildings in the Inland Lake District may be used for the following purposes as Uses Permitted by Right:

- A. Single-family dwellings.
- B. Family child care home.
- C. Home Occupations in accordance with the General Provisions requirements of this ordinance.
- D. Accessory buildings, structures and uses, as regulated by the General Provisions requirements of this ordinance.
- E. On Site Use Wind Energy System 65 feet or less in total height.

**SECTION 8.04b USES PERMITTED BY SPECIAL LAND USE**

Land and/or buildings in the Inland Lake District may be used for the following purposes following review by the Planning Commission as a Special Land Use, as regulated by this ordinance.

- A. Bed and Breakfast establishments.
- B. Public parks and playgrounds.
- C. Group child care home.
- D. Any Wind Energy System which is greater than 65 feet in height.
- E. Met Tower.

**SECTION 8.05b RIPARIAN ACCESS AND WATERFRONT KEYHOLE DEVELOPMENT**

The following restrictions are intended to provide for controlled development and use of the shoreline areas in a manner which protects the character and quality of the Township's surface water and shoreline resources; and, to prevent the overcrowding and overuse of shoreline areas and water resources which may result in nuisance conditions, degradation of property values, user conflicts and undesirable impacts on the public health, safety and general welfare. Waterfront and access standards shall meet the following conditions:

- A. Required Frontage. In all zoning districts there shall not be less than fifty (50) feet of lake or stream frontage, as measured along the high water mark, per each single-family dwelling, dwelling unit, cottage, condominium unit, apartment unit, lot, back lot or other such dwelling, dwelling unit residence or lot abutting, possessing or accessing water frontage.
- B. Application of Frontage Requirement. The required frontage shall apply to all lots and parcels on or abutting any lake or stream in all zoning districts, regardless of whether access to the lake or stream is by common-fee ownership, easement, park, single-fee ownership, condominium arrangement, association, license, lease, planned unit development (PUD) or other such means.

- C. Waterfront Access via Easement, Private Park, Etc. (Keyhole Development) No easement, private park, common area, lot or access property abutting or adjoining a lake or stream shall be used to permit access to a lake or stream for more than one (1) Single-family dwelling, dwelling unit, cottage, condominium unit, apartment unit, or other such dwelling, dwelling unit, residence or other such or similar use.
- D. Lot Compliance. A separate waterfront lot shall not be created unless said lot meets the minimum lot width and area standards of the underlying zoning district.



**ARTICLE IX**  
**MHP MANUFACTURED HOME PARK DISTRICT**

**SECTION 9.01 PURPOSE**

To provide for manufactured home park development, of long-term duration of stay, in areas which are appropriate by means of traffic access and public utilities and services. Public water and sewer facilities, or a suitable alternative method of providing such services shall be provided for each development. This development is to be located near essential community services and abutting paved public roads. All manufactured home parks shall comply with the applicable requirements of Public Act 96 of 1987, as amended, and all other applicable local, county, or state regulations.

**SECTION 9.02 PERMITTED USES**

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

- A. Manufactured homes when located within an approved manufactured home park.
- B. Home Occupations, as regulated by the General Provisions requirements of this ordinance.
- C. Accessory buildings and uses, as regulated by the General Provisions requirements of this ordinance.
- D. On Site Use Wind Energy System 65 feet or less in total height.
- E. Family child care home.

**SECTION 9.03 USES PERMITTED BY SPECIAL LAND USE**

- A. Any Wind Energy System which is greater than 65 feet in height.
- B. Met Tower.
- C. Ponds exceeding one (1) acre of surface area.
- D. Group child care home.

**SECTION 9.04 REGULATIONS**

All manufactured home parks shall comply with the applicable requirements of Public Act 96 of 1987, as amended, provided further that said developments meet the standards and conditions and all other provisions as herein established.

**SECTION 9.05 INSTALLATION AND OCCUPATION OF MANUFACTURED HOMES**

- A. No manufactured home shall be placed or parked or installed in a manufactured home park until such time as a building permit is obtained from the Township Building Inspector. Such permit shall be issued by the Building Inspector after making a finding that said manufactured home meets construction standards as approved by the Department of Housing and Urban Development (HUD) Code, or has been certified by a manufacturer as constructed according to the requirements of the HUD code.

- B. No manufactured home shall be occupied by any person as a residence or for any other purpose until such time as said manufactured home is placed or situated on a specific lot in the manufactured home park and has been inspected by the Township Building Inspector and issued an Occupancy Permit.
  - 1. Such inspection shall include the placement, connection to utilities, and compliance with all necessary State, Township or other ordinances and regulations.
  - 2. Such permit shall be issued by the Building Inspector on payment of inspection fee as may be authorized by resolution of the Township Board from time to time.
  - 3. In the event said manufactured home is moved to another lot or another manufactured home is placed on specific lot, a new Occupancy Permit must be obtained by the owner or resident from the Township Building Inspector.

**SECTION 9.06 APPLICATION PROCEDURES**

- A. Preliminary approval shall not be issued by the Township until a rezoning application to the MHP District for the manufactured home park has been approved by the Township Board in accordance with the provisions of this Article.
- B. Site Plan: Any application for the extension, alteration, or construction of a manufactured home park shall be accompanied by a site plan of the proposed development and all permanent buildings indicating the proposed methods of compliance with these requirements. Said site plan shall be in conformance with the site plan review requirements of this Ordinance.
- C. Approval: The application for rezoning and site plan review of the manufactured home park development requires the approval of the Township Board upon recommendation from the Planning Commission. In reviewing the rezoning application and site plan the following shall be among the major considerations of both bodies prior to official action being taken.
  - 1. Whether the proposal is in general accordance with the Master plan.
  - 2. Whether the proposal meets all the design standards of this Ordinance and other applicable local codes, regulations, or ordinances.
  - 3. Whether the development density of the proposed development could adversely effect adjacent properties and land uses.
  - 4. Whether the proposed development can be reasonably expected to constitute a health hazard or public nuisance to adjacent properties because of inappropriate or inadequate sanitation and/or drainage facilities.
  - 5. Whether the proposed development produces an extreme or undue demand on available fire and police protection or other Township or County services.
  - 6. Whether the traffic characteristics of the proposed development can be expected to place an extreme or undue burden on adjacent vehicular and/or pedestrian circulation facilities.

**SECTION 9.07 STANDARDS AND REGULATIONS**

- A. Minimum site size for a manufactured home park shall be forty (40) acres.
- B. Minimum number of manufactured home spaces shall be twenty-five (25). Required streets and utilities shall be completed for at least twenty-five (25) manufactured homes spaces along with related improvements before first occupancy.
- C. Each manufactured home park shall have direct access to a County primary road, as defined by the Muskegon County Road Commission.
- D. No access to the site shall be located closer than two hundred (200) feet from the intersection of any two (2) arterial streets. Minimum street widths within the manufactured home park shall be accordance with the following schedule:

Parking	Direction	Minimum Street Width
No on-street parking	One (1) way	14 feet
	Two (2) way	21 feet
Parallel parking one side	One (1) way	24 feet
	Two (2) way	31feet
Parallel parking both sides	One (1) way	34 feet
	Two (2) way	41 feet

- E. No manufactured home or other building or structure for residential purposes shall be in excess of two and one-half (2 ½) stories, or in excess of a maximum height of twenty-five (25) feet.
- F. Each manufactured home lot, exclusive of streets, shall have a minimum size of five thousand (5,000) square feet and a minimum width of forty (40) feet, as measured at the minimum building setback line. No more than one (1) manufactured home shall be parked on any one (1) lot, and no manufactured home shall be occupied by more than one (1) family.
- G. The minimum setback between any part of any manufactured home and/or structure permanently or temporarily attached thereto (excluding hitch), or used in conjunction therewith, including, but not by way of limitation, storage sheds, cabanas, and porches:
  - 1. fifteen (15) feet from the inside of the sidewalk;
  - 2. ten (10) feet from any rear lot line;
  - 3. ten (10) feet from the side lot line on the entry side and five (5) feet from the side yard on the non-entry side.

- H. Each lot shall front on sidewalks at least four (4) feet in width located directly next to and parallel to the street.
- I. Each lot shall provide a minimum of four hundred (400) square feet of paved off-street parking. In addition, paved visitor parking shall be provided at convenient locations throughout the manufactured home park in a ratio of one (1) visitor parking space for each three (3) manufactured home sites. All parking spaces shall be a minimum dimension of eighteen (18) feet in length by nine (9) feet in width.
- J. The front, back and side yards of every lot shall be suitably landscaped and properly maintained with lawn area, and there shall be one (1) shade tree provided for every two (2) lots.
- K. The manufactured home park shall provide a buffer zone strip separating the manufactured home park from adjacent property. The buffer zone shall be properly planted with trees or shrubbery or other nursery stock of varying height, so as to provide a density sufficient to block the view of the manufactured home park and buildings up to a minimum of five (5) feet in height. No part of the buffer zone shall be used for any structure, board fences, right-of-way, or parking purposes. The buffer zone shall be maintained by the owner of the park.
  - 1. In the event the back yard of any lot or lots within a manufactured home abuts adjacent property, the rear ten (10) feet of rear yard may be used as part of the buffer strip, provided further that no buildings, houses or other structures may be constructed within said strip.
  - 2. The minimum width of the buffer strip shall be thirty-five (35) feet.
- L. There shall be maintained a minimum setback of one hundred (100) feet from any public street within the manufactured home park to the nearest manufactured home lot, parking area, or accessory structure. The setback area shall be properly landscaped with grassed area and maintained by the owner and operator of the manufactured home park.
- M. All streets within the manufactured home park shall be of bituminous aggregate or similar surface meeting AASHTO public street construction specifications, and provided with proper curbing.
- N. The manufactured home park shall contain one (1) or more open space areas intended primarily for the use of park residents on a minimum ratio of two hundred and fifty (250) square feet for every manufactured home lot provided that buffer zone areas shall not be included as part of such requirements.
- O. The manufactured home park shall provide one (1) or more storm shelters of size and capacity so as to accommodate all the residents of the park.
- P. All street intersections and designated pedestrian crosswalks shall be illuminated by not less than .25 foot candles. All roads, parking bays and pedestrian walkways shall be illuminated by not less than .5 foot candles.

**SECTION 9.08 UTILITY STANDARDS**

- A. All utilities shall be underground.
- B. All lots shall be provided with public water and sanitary sewer service, or such water and sanitary services that may be approved by the Muskegon County Health Department and other applicable agencies. All manufactured homes shall be connected thereto and all expenses of installation and connection shall be borne by the owner or operator of the manufactured home park, and no costs shall be applied or taxed against owners of adjacent property or along any main extended from the manufactured home park to the present public sanitary sewer system, unless such adjacent owners shall install a sewer connection to such a main.
- C. The manufactured home park shall provide sufficient storm sewer facilities, independent of sanitary sewers, to prevent flooding of either streets or lots within the park in accordance with the requirements of the Michigan Department of Environmental Quality. All storm drainage and surface drainage facilities shall be approved by the Muskegon County Drain Commissioner.

**SECTION 9.09 MANUFACTURED HOME STANDARDS**

- A. Every manufactured home shall be supported on a permanent concrete manufactured home pad or foundation at least twelve (12) feet in width with a minimum of six hundred (600) square feet, and four (4) inches thick; and all areas between the manufactured home and ground shall be enclosed by fire resistant skirting.
- B. In the event the soil or topographic conditions of the proposed manufactured home park are such that other foundations or support are appropriate, and the developer provides to the Township Building Inspector a report by a certified engineer that piers are equal to or superior to the specifications as set forth in this Section, such foundations shall be accepted by the Building Inspector, provided such construction includes provisions for proper drainage and covering ground under each manufactured home.
- C. Every manufactured home shall be at least twelve (12) feet in width and have a minimum of seven hundred and twenty (720) square feet of living area exclusive of porches and cabanas.

**SECTION 9.10 MANUFACTURED HOME SALES**

- A. No person desiring to rent a dwelling unit site shall be required, as condition to such rental, to purchase a manufactured home from the owner or operator of the park as long as the manufactured home intended to be located on such rented site conforms in size, shape, price, etc. as may be required by any reasonable rules and regulations governing the operation of the manufactured home park.

**ARTICLE IXa**  
**OPEN SPACE PLANNED UNIT DEVELOPMENT (OS-PUD)**

**SECTION 9.01a INTENT**

This Section provides enabling authority and standards for the review, and approval of applications for Open Space Planned Unit Developments (OS-PUD's). The intent of this Section 9a is to require an alternative to traditional subdivision design by encouraging innovation and offering flexibility in the design of residential developments, which may incorporate the permanent preservation of open space, agricultural lands and other valuable natural, historical and cultural resources.

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

- A. To require a process for designing residential communities in which the first and most important step is identifying the land that is to be preserved as open space.
- B. To allow residential developments to have varied lot sizes, and to allow buildings and roads to be placed to preserve natural features.
- C. To preserve wildlife habitat.
- D. To encourage the provision of open space for active and passive recreational use.

**SECTION 9.02a DEFINITIONS**

For purposes of this section, a "subdivision" means any parcel or contiguous parcels of land proposed to be divided, into 10 or more lots, site condominium lots or recorded platted lots, for the purpose of sale, transfer or building construction and which is proposed to be served by an approved private or public road.

For the purposes of this section, "Open Space" means any parcel or area of land that is set aside, dedicated, designated or reserved for public or private use or enjoyment. Such areas may contain, but are not limited to, forests, farmland, fallow fields, floodplains, wetlands, and shorelands. Open Space can also encompass scenic vistas, recreational areas, historic sites, and common space dedicated as a permanent recorded easement.

**SECTION 9.03a OS-PUD REQUIRED**

A subdivision, as defined in this Section, shall only be allowed if approved as an Open Space Planned Unit Development according to the procedures and requirements of this Chapter. However, land which is proposed to be divided in any manner which will result in fewer than 10 new parcels, site condominium units or recorded platted lots may also be developed according to the provisions of this Section.

At such time that a parent parcel is divided so that the act of land division creates a 10<sup>th</sup> new lot from the parent parcel then this 10<sup>th</sup> lot is considered a subdivision as defined herein and shall only be allowed if first approved as an OS-PUD. Any new lots created beyond this 10<sup>th</sup> lot shall also be considered a subdivision and subject to OS-PUD approval.

**SECTION 9.04a AUTHORIZATION & PROCEDURES**

- A. An OS-PUD may only be approved by the Township Board following a recommendation from the Planning Commission in accordance with the procedures of this Ordinance in the following areas:
  - 1. Areas master planned or zoned RR, Rural Residential, or MDR, Medium Density Residential;
  - 2. Areas which are master planned or zoned MHDR, Medium High Density Residential but only if public sewer and water are provided;
  - 3. Reserved;
  - 4. Parcels within the Lake Michigan Shoreline District, Inland Lakes District and North Duck Lake Overlay District are excluded and cannot be rezoned as an OS-PUD.
  
- B. The granting of an OS-PUD rezoning application shall require an amendment of the Zoning Ordinance and Zoning Map. An approval granted under this Article shall constitute part of the Zoning Ordinance.

**SECTION 9.05a UNIFIED CONTROL**

The proposed development shall be under unified ownership or control such that there is one person, group of persons or legal entity having responsibility for the completion and ongoing maintenance of the development in compliance with this Ordinance. This requirement for unified ownership or control shall not prohibit a transfer of ownership or control, so long as it can be demonstrated that the approved OS-PUD site plan and conditions of approval will be maintained unless modified in accordance with the requirements of this Chapter.

**SECTION 9.06a PERMITTED USES**

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

- A. Single family detached dwelling units.
  
- B. Two family attached dwelling units (duplexes) provided that such dwellings do not constitute more than 25 % of the total dwelling units.
  
- C. Multi-family dwelling units but only if the land requested for rezoning to Open Space OS-PUD is recommended for Medium High Density Residential land use in the Fruitland Township Master Plan and public sanitary sewer and water is provided.
  
- D. Accessory uses, structures and buildings which are customarily associated with the uses specified above including the following:
  - 1. Farming activities are permitted in Dedicated Open Space areas but only if the land requested for rezoning to OS-PUD is master planned or zoned Rural Residential. For purposes of this Section, farming activities shall be limited to the growing of crops, fruits, and vegetables and the raising and keeping of farm animals. In permitting farming activities as part of the OS-PUD, the project shall demonstrate that the farming activities will not pose a nuisance or a hazard to the residents of the OS-PUD.

2. Golf courses, tennis courts, ball fields, bike paths, walking paths, playground, community buildings, horse stables and similar recreational facilities as well as family child care homes, provided such uses are accessory to the residential uses in the OS-PUD. Such uses shall be designed to be used primarily by residents of the OS-PUD but this shall not prohibit non – OS-PUD residents from utilizing these accessory uses provided the rules for such use are set forth in the Open Space Agreement required herein.
  3. Accessory buildings in an OS-PUD shall comply with the requirements of Section 3.08 of this Ordinance.
- E. On Site Use Wind Energy System 65 feet or less in total height.

**SECTION 9.07a USES PERMITTED BY SPECIAL LAND USE**

- A. Any Wind Energy System which is greater than 65 feet.
- B. Met Tower.
- C. Ponds exceeding one (1) acre of surface area.
- D. Group family care home.

**SECTION 9.08a DEVELOPMENT REQUIREMENTS**

**A. Lot Area and Width**

1. For areas master planned or zoned RR or MDR the minimum lot size shall be 30,000 sq. ft with a minimum lot width of 100 ft. However, the Planning Commission may recommend and the Township Board may approve up to 10 % of the total number of lots in an OS-PUD to have no less than 25,000 sq. ft. and 100 ft. of lot width. Such lots may be approved if it is demonstrated that such lot sizes are necessary because of the natural features of the site and that such lot size will be approved for private well and septic systems by the Muskegon County Health Department.

For areas master planned or zoned MHDR the minimum lot size shall be 20,000 sq. ft with 80 feet of lot width but only if public sanitary sewer and water are provided.

- B. The building height, setback, and yard requirements, general provisions, lighting and parking regulations contained in this Ordinance which would apply for the zoning district which is analogous to the Master Plan classification where the OS-PUD is proposed shall be met except that the Township Board following a recommendation from the Planning Commission may increase, decrease or otherwise modify these regulations, as may be requested by the applicant, in order to achieve the objectives of Section 9.01A. Other criteria which shall be used in making these determinations shall include the following:
  1. Whether the modifications requested will result in a project which better satisfies the intent and objectives of this Section.
  2. The modification shall be compatible with adjacent existing and future land uses and shall not significantly adversely affect the use and enjoyment of nearby property.
  3. The modification will result in the preservation of existing vegetation or other natural features on site.



4. The modification is necessary due to topography, natural features or other unusual aspects of the site.
  5. The modification will improve or not impede emergency vehicle and personnel access.
  6. The modification will improve or not impede adequate pedestrian circulation.
  7. The modification shall not result in traffic or other safety hazards; shall not result in visual blight, distraction, or clutter, and shall not otherwise result in a detriment to the public health, safety or general welfare.
- C. Perimeter Lot Sizes. The Planning Commission may require that an OS-PUD be developed with lot sizes on the perimeter which will blend with adjacent residential lands uses, either planned or existing.

**SECTION 9.09a OPEN SPACE REQUIREMENTS**

- A. An OS-PUD shall provide and maintain the following minimum amount of Dedicated Open Space in accordance with the standards of this Article. For purposes of this Ordinance, Dedicated Open Space shall mean that portion of an OS-PUD which is permanently preserved in an undeveloped state through an open space preservation agreement as required herein.
1. For land master planned or zoned Rural Residential or Medium Density Residential 40 percent of the total area of the site shall be preserved as Dedicated Open Space.
  2. For land master planned or zoned Medium High Density Residential 15 percent of the total area of the site shall be preserved as Dedicated Open Space.
- B. Areas Not Counted as Dedicated Open Space.
1. The area within all public or private road rights-of-way.
  2. Golf course.
  3. Any easement for overhead utility lines.
  4. The area within a platted lot, site condominium unit or metes and bounds parcel occupied or to be occupied by a building or structure not permitted to be located in open space.
  5. Off street parking area.
  6. Detention and retention ponds created to serve the project.
  7. Community drain fields.
  8. 50% of the area of existing wetlands, creeks, streams, existing ponds.
  9. 50% of the area of floodplains and 50% of areas of slopes of more than 20%.
- C. Standards for Open Space.

The following standards shall apply to the preserved open space required by this Section:

1. The open space may include a recreational trail, picnic area, children’s play area, community building or other use which, as determined by the Planning Commission, is substantially similar to these uses. These uses, however, shall not utilize more than 50 percent of the Dedicated Open Space.

2. A portion of the Dedicated Open Space shall be located along the public road frontage abutting the site. The depth of this area shall be at least 100 feet not including public road right of-way, and this area shall be left in its natural condition or landscaped to help reduce the view of houses on site from the adjacent roadway and preserve the rural view.
3. Open space areas are encouraged to be linked with any adjacent open spaces, public parks, bicycle paths or pedestrian paths.
4. The open space shall be available for all residents of the development, subject to reasonable rules and regulations and shall be reasonably accessible to the residents of the open space development. Safe and convenient pedestrian access points to the open space from the interior of the open space shall be provided.
5. If the land contains a lake, stream or other body of water, the Planning Commission may require that a portion of the open space abut the body of water.
6. Open space shall be located so as to preserve significant natural resources, natural features, scenic or wooded conditions, bodies of water, and wetlands.

D. Methods to Preserve Open Space.

The applicant shall provide an open space preservation and maintenance agreement to the Township Board stating that all dedicated open space portions of the development shall be maintained in the manner approved. Documents shall be presented that bind all successors and future owners in title to commitments made as part of the proposal. This provision shall not prohibit a transfer of ownership or control, provided notice of such transfer is provided to the Township and the land uses continue as approved in the OS-PUD plan, unless an amendment is approved by the Township Board.

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

The legal instrument shall:

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

**SECTION 9.10a DENSITY & NUMBER OF DWELLING UNITS ALLOWED**

An area which is requested for rezoning to OS-PUD shall only be developed in accordance with the density recommended by the Township Master Plan or zoning district as set forth in the following Density Table.

The Township Board, following a recommendation from the Planning Commission, may choose to allow fewer dwellings than permitted by the Density Table if, in the opinion of the Board, a reduction in the number of dwellings proposed would better achieve the intent and objectives of the OS-PUD district.

A. Density Table

<u>Master Plan Category</u>	<u>Zoning District</u>	<u>Maximum Average Density</u>
Rural Residential (RR)	RR	5 acres/dwelling unit (.2 dwelling units per acre)
Medium Density Residential (MDR)	MDR	2 acres/ dwelling unit (.5 dwelling units per acre)
Medium High Density Residential (MHDR)	MHDR	30,000 sq. ft. per dwelling unit w/o public sanitary sewer and water. (1.45 dwelling units per acre.) 20,000 sq. ft per dwelling unit w/public sewer and water. (2.17 dwelling units per acre)

B. Formula to Determine Number of Dwellings.

The number of dwellings which may be constructed within an OS-PUD shall be determined as follows:

1. Determine gross site area. The gross site area may include road right of way if included in legal description.
2. Subtract half of the Primary Conservation Areas. For purposes of this Ordinance, Primary Conservation Areas shall be defined as existing wetlands, creeks, streams, ponds, floodplains and slopes over 20%.
3. Multiply this acreage by the Maximum Average Density from the Density Table to determine the number of dwellings permitted. Any resulting fraction shall be rounded down to the nearest whole number.

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

D. Additional dwellings above what is allowed by Section 9.09a.A above may be permitted at the discretion of the Township Board following a recommendation by the Planning Commission if the development provides additional amenities or preserves additional open space which would result in a significant recognizable benefit to the Township and residents of the OS-PUD. Items which could be added to an OS-PUD so it may be eligible for consideration for additional dwelling units shall include one or more of the following items as well as similar items:

1. Provision of recreational facilities such as playground areas with play equipment, ball fields, bike path, man-made lake, and community building or similar recreation facility.
  2. Additional landscaping to preserve or enhance the rural view along the roadway.
  3. Enhancement of existing wetlands, subject to applicable regulations.
  4. Provision of a public water and/or sanitary sewer system.
  5. Providing additional open space on a site different than the proposed OS-PUD site but within Fruitland Township provided such open space would be of benefit to Fruitland Township residents as determined by the Township Board.
- E. Formula for Additional Dwellings. If additional dwelling units are to be permitted by the Township Board as allowed by the above section, the number of dwelling units, which may be constructed shall be determined as follows:
1. Determine gross site area. The gross site area may include road right of way if included in legal description;
  2. Multiply this acreage by the Maximum Average Density from the Density Table to determine the number of dwellings permitted. Any resulting fraction shall be rounded down to the nearest whole number. In no case shall the number of dwelling units exceed what is permitted by this subsection, 9.09a.E.

**SECTION 9.11a      PREPARATION OF OS-PUD PRELIMINARY SITE PLAN:  
4 STEP DESIGN PROCESS**

- A. **4 Step OS-PUD Design Process.** A site plan for an OS-PUD shall be prepared according to the following process. Approval of an OS-PUD site plan shall be based on how closely the site plan conforms to this design process as well as conformance to the standards for approval of an OS-PUD contained in Section 9.14a of this Ordinance.

The applicant shall prepare two plans: a Natural Features & Development Area Map and a Preliminary Site Plan using the design process described below.

<b>STEP 1</b>	<b>Prepare a Natural Features &amp; Development Areas Map</b>
---------------	---

1. The Natural Features & Development Area Map shall illustrate the Primary Conservation Areas and those other areas on the site which are to be preserved as Dedicated Open Space on the site.
  - Primary Conservation Areas, for purposes of this Ordinance, shall be defined as existing wetlands, creeks, streams, ponds, floodplains and slopes over 20%.
  - The Dedicated Open Space illustrated on this map shall comply with the requirements for open space per Section 9.08a of this Ordinance.
  - Only one half of the Primary Conservation Areas shall be counted toward the required amount of Dedicated Open Space.

2. Label other natural site features such as woods, stands of trees, specimen trees, farm lands and fields, meadows and hedgerows, farm buildings and fences.
3. The Dedicated Open Space as required by Section 9.08a of this Ordinance shall be clearly labeled on the map. The areas outside the Dedicated Open Space shall be illustrated on the map as the Development Area which is the only area where house sites may be located.

<b>STEP 2</b>	<b>Locate House Sites on Natural Features &amp; Development Area Map</b>
---------------	--

4. On the same Natural Features and Development Area Map illustrate the tentative location of house sites. The number of houses permitted for the site shall be as determined by Section 9.09a of this Ordinance.
  - House sites shall only be located within the Development Area identified in Step 1. A house site shall not be located within the Primary Conservation Areas or other areas illustrated as Dedicated Open Space.
  - The location of house sites should be done according to the following design standards:
    - (i) Houses should be placed so that the predominant view from the house is of open space and not of dwellings on the opposite side of the street.
    - (ii) Houses should be placed so that scenic views are left unblocked or uninterrupted, particularly as seen from the public road right-of-way.
    - (iii) In order to maintain scenic views and rural character, dwellings placed directly on hilltops shall be discouraged if the dwelling is unscreened from the view of nearby properties and roads. Dwellings which are three stories as viewed from nearby public streets, such as a two story walkout, shall also be discouraged as such dwellings can detract from the rural view.

<b>STEP 3</b>	<b>Locate Conceptual Roads on Natural Features &amp; Development Area Map</b>
---------------	---

5. On the Natural Features & Development Area Map illustrate the conceptual location of streets which shall be designed to serve the house sites identified in Step 2. Trails shall also be illustrated on this plan.
 

The location of streets should be designed according to the following design standards:

  - (i) Avoid crossing wetlands and wildlife habitat areas with streets.
  - (ii) Street systems should be designed to produce terminal vistas (views) of open spaces, village greens, water features, meadows or playing fields.

- (iii) Streets are encouraged to have houses on only one side of the street are to allow residents a view of open spaces within the development.
- (iv) Every effort should be made to connect each street with another to minimize dead-ends, to provide safe and efficient access for emergency and public service vehicles, and to avoid conditions where certain residential streets become collectors that carry the majority of neighborhood traffic.
- (v) Where cul-de-sacs are unavoidable, they should be provided with pedestrian and bike linkages to nearby streets or adjoining neighborhoods.
- (vi) Streets serving new developments should be designed to connect with adjoining properties.
- (vii) OS-PUD developments shall, where feasible and appropriate, provide a trail system that provides pedestrian and bicycle linkage throughout the development, that take advantage of the open space areas. Linkage to future neighborhoods and developments that may occur adjacent to the development may be provided and are encouraged.

<b>STEP 4</b>	<b>Prepare Preliminary Site Plan</b>
---------------	--------------------------------------

- 6. Next, prepare a separate plan to be known as the Preliminary Site Plan in accordance with the requirements of Section 15.03B herein and
  - Draw lot lines for each house site and the road rights-of-way within the Development Area and
  - Illustrate the boundaries of the Development Area on the Preliminary Site Plan.
  - (i) If permitted by the MCHD, septic drain fields may be located within the Dedicated Open Space areas outside the lot lines.
  - (ii) As part of the Preliminary Site Plan, the applicant shall provide documentation from the Muskegon County Health Department that the soil types in the buildable areas are acceptable for on site well and septic systems.
- 7. The Natural Features Map plan prepared according to Steps 1 and 2 above along with the Preliminary Site Plan prepared according to Steps 3 and 4 shall be submitted to the Planning Commission for preliminary site plan review according to the procedures of this Ordinance.

## SECTION 9.12a DEVELOPMENT REQUIREMENTS

An OS-PUD permitted under this Section shall comply with the following requirements:

- A. Sidewalks. For areas recommended for Medium High Density Residential land use in the Master Plan, the Planning Commission may require sidewalks in accordance with the Township's subdivision and site condominium regulations.
- B. Grading. To preserve the natural appearance and beauty of the property, all graded areas, cuts and fills will be kept to a minimum. In appropriate cases, retaining walls may be required. Grading within the OS-PUD shall be planned and carried out so as to avoid erosion, pollution, flooding or other adverse effects upon the land, and to have a minimal effect upon the environmental characteristics of the land as reasonably feasible.
- C. Private Roads. Private roads within an OS-PUD shall conform to the private road requirements of this Ordinance.
- D. Utilities. The OS-PUD shall be served by either private or community owned well and septic system approved by the Muskegon County Health Department or by a public water and sanitary sewer system.
- E. Storm Water Management.
  - 1. A stormwater management plan shall be submitted with both the Preliminary Development Plan for and the Final Development Plan. This plan shall provide information on how storm water will be controlled during and after construction. This plan shall be subject to the review and approval of the Township Engineer.
  - 2. Storm water shall be substantially managed with green infrastructure such as vegetated swales, rain gardens, stone weirs or dikes, sediment basins and shallow storm water areas. Storm water shall be minimally managed with conventional storm water management structures such as gutters, catch basins, underground pipes, detention ponds, and retention ponds. Underground detention facilities may be permitted.
  - 3. Storm water detention ponds may be allowed for the containment of storm water run off if it is demonstrated that other stormwater management measures as noted above are not feasible due to soil types, topography or other similar site features.
- F. Outdoor Lighting. Outdoor lighting shall be designed and located to avoid casting any direct or reflected glare upon neighboring property or upon adjacent structures within the proposed project.
- G. Signs. Signs shall comply with the sign requirements of this Ordinance.
- H. Minimum Dwelling Unit Size. The minimum size of a dwelling unit shall be as required for dwellings normally permitted by the Zoning District as recommended by the Master Plan.

- I. Setbacks Abutting Agricultural Uses. Where an area requested for a OS-PUD zoning abuts an active farm the Planning Commission may recommend and the Board may approve a requirement that a buffer zone of 250 feet be provided along that portion of the OS-PUD abutting the farm to mitigate any adverse effects of the farm operation on future residents of the OS-PUD and to protect the farm operation from the impacts of non-farm residents. This buffer zone could include but would not be limited to greater setbacks for dwellings and yards, the provision of earthen berms or landscaping or a combination of these and other methods.

**SECTION 9.13a PUBLIC AND PRIVATE STREET CONNECTIONS TO ADJACENT PROPERTY**

- A. Public or private streets may be required to be extended to an adjacent property line by the Township Board following a recommendation from the Planning Commission which shall be based on both of the following criteria:
  1. The road extension is a logical method to achieve the safe and efficient movement of vehicles and pedestrians between residential areas and to reduce the amount of vehicle trips which would otherwise need to utilize the public street system to access adjoining residential areas. In making this determination, the Planning Commission shall consider the likelihood of the adjacent property being developed, whether the natural site features on the adjacent property preclude or present difficulty in extending the public or private road, and if the adjacent site is already developed so as to prevent the extension of the public or private road.
  2. The road extension would not result in future traffic from off-site creating unsafe situations for the residents of the project proposed by the applicant.
- B. If such a connection is required the Planning Commission shall require that one of the following methods be followed:
  1. The applicant shall construct the road to the adjacent property line at the time that the private road is built;
  2. The applicant shall illustrate an easement for the future road on the approved OS-PUD site plan and record an agreement to construct the road connection within the easement when the adjacent property develops and:
    - (i) the Planning Commission determines the necessity of the road connection OR
    - (ii) the owners of the properties to be served by the road connection agree to the necessity of the road connection.
- C. The road connection shall remain open at all times for the uninterrupted movement of people and vehicles

**SECTION 9.14a PROCEDURES TO REVIEW AN OS-PUD REQUEST**

- A. Application. An applicant for an OS-PUD rezoning shall comply with the submittal and review requirements of Section 14.12 A-D of this Ordinance.



- B. Pre-application Conference. Before submitting an application for a OS-PUD, an applicant may meet with the Planning Commission or Township Zoning Administrator, Planner or Engineer to submit information regarding a proposed OS-PUD and to confer with the Planning Commission, or staff, about the proposed application and the OS-PUD.
- C. Preliminary Development Plan. An applicant for OS-PUD rezoning shall submit 10 copies of the site plans required by Section 9.10a of this Section. The site plan shall also note the following information:
1. The proposed density, number, and types of dwelling units.
  2. Calculations demonstrating compliance with the ordinance requirements for open space and number of permitted dwellings.
- D. Environmental Impact Assessment. The Planning Commission may require at the applicants expense an environmental impact assessment as part of the Preliminary or Final Site Plan. This assessment shall at a minimum describe the effect and impact that the proposed OS-PUD will or may have upon the lands involved and the adjacent and nearby lands, streams, rivers, wetlands, and the quality and volume of surface and groundwater; wildlife and trees, and other significant vegetation.
- E. Review of Preliminary Development Plan. The Planning Commission shall review the preliminary development plan and make recommendations to the applicant regarding the OS-PUD, together with any recommended changes or modifications thereof.
- F. Final Development Plan.
1. After receiving the recommendations of the Planning Commission on the preliminary development plan, the applicant for OS-PUD rezoning shall submit a Final Development Plan to the Township office in accordance with the requirements for Final Site Plan Review as contained in Section 15.03.C of this Ordinance. Copies of the plan shall be forwarded to the Planning Commission.
  2. The Final Development Plan shall contain all of the information required for Final Site Plan review unless the same is waived by the Planning Commission as not being reasonably necessary for the consideration of the OS-PUD plus the following:
    - (i) All of the drawings, narrative, studies, assessments, and other information, and materials comprising the preliminary development plan, including all of the recommendations of the Planning Commission thereon.
    - (ii) Projected time for completion of the entire OS-PUD and the proposed phasing, if any, of the OS-PUD.
    - (iii) Any other information reasonably required by the Planning Commission in connection with its review of the OS-PUD and consideration of the rezoning of the lands in accordance with the OS-PUD plan.

- G. Planning Commission Public Hearing on Final Development Plan. The Planning Commission shall hold a public hearing on the Final Development Plan and the application for rezoning in accordance with the Plan. Notice of the hearing shall be given as required by this Ordinance for re-zonings.
- H. Consideration of Final Development Plan by Planning Commission. After the public hearing, the Planning Commission shall make recommendations concerning the Final Development Plan and the modifications in the Final Development Plan and the rezoning, to the Township Board.
- I. Standards for Approval. In making a recommendation to approve an OS-PUD, the Planning Commission must find that the proposed OS-PUD meets the standards for approval as contained in Section 9.14a.
- J. Final Consideration of OS-PUD by Township Board. The Township Board shall hold a public hearing on the Final Development Plan and the recommendations submitted by the Planning Commission. Notice of the hearing shall be given as required by this Ordinance for re-zonings.

The Township Board shall determine whether the Final Development Plan complies with the standards, conditions, and requirements of this Ordinance and, in addition, shall determine whether the proposed project promotes the intent and purpose of this Ordinance; insures that the proposed project will be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the proposed project; and insures that the proposed project will be consistent with the public health, safety, and welfare needs of the Township.

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

- K. Conditions of Approval. The Township Board may impose reasonable conditions upon its approval. Such conditions may include conditions necessary to insure that public services and facilities affected by a proposed project will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet all of the following requirements.
  - 1) They shall be designed to protect natural resources, the health, safety, and welfare and the social and economic well being of those who will use the proposed project under consideration, residents, and landowners immediately adjacent to the proposed project and the community as a whole.
  - 2) They shall be related to the valid exercise of the police power, and the purposes which are affected by the proposed project.

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

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

L. Rezoning. If the Township Board approves the Final Development Plan and the proposed application for rezoning, it may rezone the property in accordance with the Township Zoning Act as amended. Publication of the rezoning ordinance or publication of a summary of the provisions thereof shall be accomplished in the manner provided by law. Following approval of the OS-PUD rezoning the Official Zoning Map of Fruitland Township shall be changed to reflect the OS-PUD zoning for the parcel.

M. Conformance to Final Development Plan

A OS-PUD shall be constructed in strict conformance with the approved Final Development Plan and any conditions of approval. Any changes shall only be allowed in accordance with the requirements of Section 9.15a herein.

#### **SECTION 9.15a        STANDARDS FOR APPROVAL**

In making a recommendation to approve a OS-PUD, the Planning Commission must find that the proposed OS-PUD meets the standards for Final Development Plan approval as contained in Section 15.07 of this Ordinance and the following standards as applicable:

- A. Granting the OS-PUD rezoning will result in a recognizable and substantial benefit to ultimate users of the project and to the community, and the benefit would otherwise be unfeasible or unlikely to be achieved.
- B. The OS-PUD will not result in a significant increase in the need for public services and facilities and will not result in significant adverse effects upon nearby or adjacent lands or the natural environment unless the resulting adverse effects are adequately provided for or mitigated by features of the OS-PUD as approved.
- C. The OS-PUD will be compatible with the Master Plan of the Township and consistent with the intent and purpose of the OS-PUD Section.
- D. The OS-PUD is designed to substantially comply the with the four step design process of Section 9.10a and the development requirements of Section 9.11a herein.
- E. Protects the rural roadside character by preserving or enhancing the existing view along the roadway.
- F. The individual lots, buildings, roadways, and open space areas are designed to minimize the alteration of environmental site features.

**SECTION 9.16a AMENDMENTS TO APPROVED OS-PUD.**

- A. An approved Final OS-PUD Development Plan and any conditions imposed upon Final OS-PUD approval shall not be changed except upon the mutual consent of the Township Board and the applicant except as otherwise noted below.
- B. Minor Amendments. A minor change may be approved by the Zoning Administrator who shall notify the Planning Commission and the applicant in writing of the minor change and that such change does not substantially change the basic design or alter the conditions required for the plan by the Commission.

The following items shall be considered as minor changes:

- 1. Reduction of the size of any building and/or sign.
- 2. Movement of buildings or dwellings and/or signs by no more than 10 feet provided all setback requirements of the OS-PUD are still met.
- 3. Plantings approved in the site plan landscape plan may be replaced by similar types of landscaping.
- 4. Internal rearrangement of a parking lot which does not affect the number of parking spaces or alter access locations or design.
- 5. Changes required or requested by the Township for safety reasons.
- 6. Changes which will preserve the natural features of the site without changing the basic site layout.
- 7. Other similar changes of a minor nature proposed to be made to the configuration, design, layout or topography of the site plan which are deemed by the Zoning Administrator to be not material or significant in relation to the entire site and which the Zoning Administrator determines would not have any significant adverse effect on adjacent or nearby lands or the public health, safety and welfare.

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

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

**SECTION 9.17a          PERFORMANCE GUARANTEES**

The Township Board, after recommendation by the Planning Commission, or in its own discretion, may require reasonable performance guarantees or assurances in accordance with Section 20.11 of this Ordinance.

**SECTION 9.18a          TIME LIMITATIONS ON DEVELOPMENT**

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

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

If the property is not rezoned, then the subject property remains zoned as an OS-PUD, but the preliminary or final OS-PUD plans previously approved are voided. In order to utilize the property as an OS-PUD, an applicant shall submit plans for preliminary and final OS-PUD site plan approval as required by this Section, but OS-PUD rezoning by the Board shall not be required.

**SECTION 9.19a          APPEAL/VARIANCE**

The Zoning Board of Appeals shall not have jurisdiction to accept appeals or to grant variances with respect to an approved Open Space Planned Unit Development.

# **ARTICLE X**

## **WM WATERFRONT MARINE DISTRICT**

### **SECTION 10.01 INTENT AND PURPOSE**

The WM Waterfront Marine District is intended to accommodate recreational boating and water oriented land uses along with activities and services related to that use and to provide safe and orderly waterfront development compatible with other uses in the vicinity.

### **SECTION 10.02 USES PERMITTED BY RIGHT**

In the WM Waterfront Marine District, no structure or land shall be used and no structure erected except for one or more of the following specified uses:

- A. Marinas with not more than one slip for each ten (10) feet of frontage operating under permits issued by regulatory agencies having jurisdiction.
- B. One single-family dwelling unit.
- C. On Site Use Wind Energy System 65 feet or less in total height.

### **SECTION 10.03 USES PERMITTED BY SPECIAL LAND USE**

The following uses of land and structures may be permitted in this District by the application for and the issuance of Special Land Use, as provided for in Article XIV:

- A. Marinas with more than one slip for each ten (10) feet of frontage operating under permits issued by regulatory agencies having jurisdiction.
- B. In connection with a marina:
  - 1. Two or more dwelling units.
  - 2. Restaurants.
  - 3. Commissary facilities for provision of food, beverages, and similar goods primarily intended for and designed to accommodate recreational boating.
  - 4. Retail businesses that supply goods and services for persons using the facilities of the District such as the sale of boats, boat engines and accessories, fishing equipment, engine and hull repair shops and similar goods and services.
  - 5. Marine contracting businesses, including the indoor storage of equipment and the docking of work boats and barges.
  - 6. Outdoor out of water storage of boats.
  - 7. Boat launch facilities.
  - 8. Recreational facilities for use by the occupants of the marina slips.
  - 9. Gasoline and/or diesel sales.
- C. Uses similar to the above permitted and fulfilling the intent and purpose of the WM Waterfront Marine District.
- D. Accessory buildings and structures to the foregoing.

- E. Any Wind Energy System which is greater than 65 feet in height.
- F. Met Tower.

**SECTION 10.04 SITE DEVELOPMENT STANDARDS**

The following maximum and minimum standards shall apply to all uses and structures in the WM Waterfront Marine District:

- A. Minimum Lot Area: No building or structure shall be established on any parcel less than sixty thousand (60,000) square feet in lot area.
- B. Minimum Lot Width: The minimum lot width and the minimum frontage on water shall be two hundred (200) feet.
- C. Yard and Setback Requirements:
  - 1. Front Yard: Not less than fifty (50) feet.
  - 2. Side Yards: Ten (10) feet, except in the case of a corner lot where the side yard on the street shall not be less than the setback required for the front yard.
  - 3. Side Yards Adjacent to Residential District: No structure shall be less than thirty-five (35) feet from any residential district boundary line.
- D. Maximum Floor Area: Primary and accessory structures are restricted to a maximum gross ground floor area of twenty (20%) percent of the lot size and to a maximum total gross floor area of forty (40%) percent of the lot size.
- E. Maximum Height Requirements: No structure shall exceed forty-four (44) feet in height as measured from the average grade.
- F. Parking shall be in accordance with the Parking and Loading requirements of this ordinance.

**ARTICLE XI  
NC NEIGHBORHOOD COMMERCIAL DISTRICT**

**SECTION 11.01 INTENT AND PURPOSE**

The Neighborhood Commercial District provides locations within the township for small, convenient commercial areas. These areas are primarily located at designated locations within the township as described in the Master Plan. Uses considered to be appropriate for the NC District shall cater to the residents of Fruitland Township and nearby areas, remain small enough in scale to be well integrated into the neighborhood setting, and possess appropriate traffic safety components which will limit potential negative impacts resulting from a non-residential use. Uses may be prohibited which may create hazards; excessive traffic, offensive or loud noises; or excessive vibration, smoke, glare, or heavy truck traffic. The requirements of the Ordinance are in addition to other ordinance provisions including but not limited to the “Shorelands Protection and Management Act,” the Sand Dune Protection and Management Act, the “Wetlands Protection Act” and the “Clean Water Act”, as amended.

**SECTION 11.02 USES PERMITTED BY RIGHT**

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

- A. Retail establishments, conducting business entirely within enclosed buildings.
- B. Banks, credit unions, and similar financial institutions, not containing drive through facilities.
- C. Personal service establishments which perform services on the premises, including barber and beauty shops, photographic studios, dry cleaners, electronics repair, and similar uses.
- D. Professional and business offices.
- E. Utility and public service buildings, without storage yards, but not including essential public services such as poles, wires, and underground utility systems.
- F. Accessory buildings, structures and uses customarily incidental to any of the above Uses Permitted by Right, or Special Land Uses, as regulated by the General Provisions requirements of this ordinance.
- G. Technical, Professional, Trade, and similar education and training centers not qualifying as a school.
- H. Greenhouses and Nurseries.
- I. Medical offices including clinics.
- J. Single family dwellings existing on or before January 1, 2009.
- K. On Site Use Wind Energy System 65 feet or less in total height.

**SECTION 11.03 USES PERMITTED BY SPECIAL LAND USE**

The following uses are permitted in the NC district by obtaining approval from the Planning Commission as a Special Land Use after all applicable standards of this ordinance are satisfied.

- A. Restaurants, including those with drive-through service.
- B. Banks, dry cleaners, pharmacies, and similar personal services, with drive-through service.
- C. Funeral homes and mortuary establishments.
- D. Open air businesses.
- E. Vehicle service stations.
- F. Vehicle wash establishments.
- G. Commercial day care facilities.



- H. Hotels and motels.
- I. Commercial recreation including mini-golf, driving ranges, bowling lanes, theaters, indoor skating rinks, billiard parlors, or similar uses.
- J. Retail and wholesale materials and building supplies.
- K. Veterinary hospitals and animal clinics.
- L. Kennels.
- M. Any Wind Energy System which is greater than 65 feet in height.
- N. Met Tower.
- O. Ponds exceeding one (1) acre of surface area.

**SECTION 11.04 SITE DEVELOPMENT STANDARDS**

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

Minimum lot area	30,000 square feet
Minimum lot width	100 feet
Minimum front yard setback	100 feet for buildings, 75 feet for supplementary structures other than buildings – No parking shall be located within the first 15 feet of the front yard. The 15 foot setback shall be landscaped.
Minimum side and rear yard setback	10 feet
	Side or rear yards adjoining any lot in a Residential District shall be, no less than fifty (50) feet, screened by a compact hedge of deciduous or evergreen trees which reach a minimum of six (6) feet in height and five (5) feet in width after one (1) growing season; or a solid wall or opaque board fence six (6) feet in height; or a combination of these elements.
Maximum building height	Residential homes shall be no higher than thirty-five (35) feet measured from the average grade. Commercial structures shall be no greater than forty-four (44) feet measured from the average grade.
Maximum lot coverage	35% for buildings and structures; not to exceed a total of 60% for structures, drives, and parking area (excluding any public rights-of-way)
Streams, Creeks and Lakes	No buildings shall be permitted within one hundred (100) feet from the normal ordinary high water mark of any streams, creeks, lakes or similar bodies of water. Also, no septic tanks, tile fields or similar waste facility shall be permitted within one hundred (100) feet from the normal ordinary high water mark of any streams, creeks, lakes or similar bodies of water unless specifically mandated by the County Environmental Health Officer.

- B. Parking lots as regulated by the Parking and Loading requirements of this ordinance, Parking and Loading, for uses in the NC District shall be adequately lit to ensure security and safety and shall meet the following requirements:
  - 1. Light fixtures shall be no higher than twenty (20) feet and shall be provided with light cut-off fixtures that direct light downward. Lighting shall not be attached to buildings or other structures that permit light to be directed horizontally.
  - 2. Lighting shall not be permitted to illuminate areas not within the parking lot or other areas related to the use for which the parking is intended.

## **ARTICLE XII**

### **FPR FOREST PRESERVATION AND RECREATION DISTRICT**

#### **SECTION 12.01 INTENT AND PURPOSE**

The Forest Preservation and Recreation Zoning District (“FPR”) is intended to protect and sustain those lands and water bodies most suitable for public recreational purposes and forest preserves. The FPR zoning district provides regulations which will maintain the natural and unique characteristics of Duck Lake State Park. This District was recommended in the Fruitland Township 2010 Master Plan which states:

“... Duck Lake and White Lake are revered as gems and their shorelines will be protected from overcrowding and poorly conceived developments, which are out of context with the shoreline environment. Likewise, dune lands, tributaries, wetlands and high water table areas will be respected as fragile and important environments. Density in these areas will be kept very low to limit disruption of the landscape and protect natural resources.”

The FPR requirements are designed to regulate and limit the number of structures and the types of uses allowed in order to minimize their impact on wildlife and their habitat, to protect the ecological value of sand dunes from encroachment by future development, to protect the water quality of Duck Lake and to support the state of Michigan in the continuation of Duck Lake State Park as a significant recreational resource for the citizens of Fruitland Township and the people of Michigan.

The establishment of this District also supports the following Goals, some of which are contained in the Fruitland Township Master Plan:

- To plan for and regulate new development in a manner which preserves open space, protects the natural environment, and maintains the rural character of the Township.
- To plan and provide a district which preserves open space, woodlands, maintains the natural environment, and keeps these designated areas of the Township for future generations.
- To direct development so that it takes place in a manner that minimizes or eliminates the potential for soil erosion and disturbances to the natural drainage network, and that also protects the quality of surface and groundwater, woodlands, wetlands, and wildlife habitat.

- To ensure that any development protects the natural or aesthetic character of environmentally sensitive areas through responsible and innovative development and site planning techniques.
- To prohibit clear-cutting of significant forested areas in accordance with best scientific management practices.
- To require buildings to be setback at least 100 feet from the normal ordinary high water mark of any stream, creek, lake, or similar body of water.

**SECTION 12.02 USES PERMITTED BY RIGHT**

- A. Forestry management operations in accordance with generally accepted forestry management practices (GAFMPs) as defined and prescribed under the auspices of the Right to Forest Act Public Act 676 of 2002.
- B. On Site Use Wind Energy System 65 feet or less in total height.
- C. Public parks (including forests, camping, playgrounds, and swim beaches) owned and operated by the state of Michigan (or any of its governmental agencies) for use by the general public. See also, Section 5, below.

The above uses shall not be subject to the site plan review requirements of Article 15 herein.

**SECTION 12.03 USES PERMITTED BY SPECIAL LAND USE**

Land, structures and/or buildings in the Forest Preservation and Recreation District may be used for the following purposes following review and approval by the Planning Commission as a Special Land Use as regulated by this Ordinance.

- A. Parks, playgrounds, swimming beaches, trails for hiking, horseback riding, bicycling, cross country skiing, or snowmobiling where all motorized wheeled vehicles are prohibited on such trails except for handicapped and maintenance vehicles, hunting /fishing clubs, wildlife refuge and game preserves, not owned or operated by the state of Michigan (or any of its governmental agencies).
- B. Public or private docks, piers, boat ramps or launches.
- C. Campgrounds (for tents and recreational vehicles) not owned or operated by the state of Michigan (or any of its governmental agencies).
- D. Riding stables.
- E. Any Wind Energy System which is greater than 65 feet in height.

F. Ponds exceeding one (1) acre of surface area.

**SECTION 12.04 SITE DEVELOPMENT STANDARDS**

A. No use, main building, or principal structure, nor the use, or enlargement or expansion of any main building or principal structure, shall hereafter occur or be erected unless all of the following requirements are met and maintained in connection with such use, building, or structure, or the enlargement or expansion thereof.

Front Yard Setback	One hundred (100) feet
Side Yard Setback	Fifty (50) feet as measured to the foundation.
Rear Yard Setback	Fifty (50) feet.
Building Height	Main building - Thirty-five (35) feet.
Lot Coverage (buildings and impermeable surfaces)	Five (5) percent.
Minimum Lot Area	Forty (40) acres.
Minimum Lot Width	Three hundred (300) Feet.
Lakes, Streams and Creeks	No building or septic tanks, tile fields or other similar waste facilities shall be allowed within one hundred (100) feet from the normal ordinary high water mark of any stream, creek, lake, or similar body of water with the exception of lift stations or similar devices.  The regulations of Section 3.30, Riparian Access and Waterfront Keyhole Development, and the regulations of the Shoreline Overlay District shall fully apply to all lands in this District.

B. Tree cutting and or removal of shore cover:

1. On banks facing the lake, stream or creek natural vegetation should be kept where possible to help filter nutrients from ground water flowing to the lake and prevent erosion.
2. Selective trimming of trees and brush for a filtered view of the lake, stream or creek is preferred as opposed to clear-cutting within one hundred (100) feet inland of the water's edge to provide a buffer strip of deeper rooted plants for nutrient absorption and erosion control.

3. Natural vegetation (such as trees or shrubs) shall be preserved as far as practical and where removed, shall be promptly replaced with other vegetation that is equally effective in retarding runoff, preventing erosion, and preserving natural beauty.
- C. A natural vegetation strip shall be maintained to a depth of 100 feet from the road right-of-way line for all portions of any lot or parcel which abuts a street (excluding necessary driveways and access roads) within the FPR district. Within this area, the vegetation shall be maintained in trees, shrubs, field grasses and other vegetation native to the area subject to the following provisions:
- Dead, diseased, unsafe or fallen trees, and noxious and invasive weeds and shrubs and growth may be removed.

**SECTION 12.05 CAMPGROUNDS, PARKS, AND FORESTS OWNED AND OPERATED BY THE STATE OF MICHIGAN**

Any campground, park, forest, or similar use owned and operated by the state of Michigan (or any governmental agency thereof) for public purposes shall be exempt from Section 4 above. However, docks, piers, boat ramps or launches, and similar structures or items used, owned, operated by, or maintained by the state of Michigan (or any of its agencies), shall be fully subject to Sections 3 and 4 above.

# **ARTICLE XIII**

## **AP AMUSEMENT PARK DISTRICT**

### **SECTION 13.01 INTENT AND PURPOSE**

The AP Amusement Park District is intended for the development and preservation of amusement parks, for the purpose of amusement and entertainment, properly licensed by the State of Michigan, including but not limited to providing rides, games, displays, playgrounds, zoos or aviaries, as well as the sale of food, beverage, and gifts.

### **SECTION 13.02 USES PERMITTED BY RIGHT**

Land and/or buildings in the AP District may be used for the following purposes as Uses Permitted by Right:

- A. Amusement parks and related uses including but not limited to the service of providing rides, games, displays, playgrounds, zoos or aviaries, and theatrical performances, for the purposes of amusement and entertainment, as well as the sale of food, beverage, gifts, and other ancillary and accessory goods customarily incidental to an amusement park, with hours of operation 9am – 11pm.
- B. Professional and business offices related and accessory to an amusement park.
- C. Living quarters of a watchman or caretaker for amusement park.
- D. Medical facilities accessory to an amusement park.
- E. Cafeteria and other related employee services accessory to amusement parks.
- F. Public buildings and public utility offices, but not including storage yards, substations, or regulator stations.
- G. Accessory buildings, structures and uses customarily incidental to any of the above Uses Permitted by Right, as regulated by the General Provisions requirements of this ordinance.
- H. On Site Use Wind Energy System 65 feet or less in total height.

### **SECTION 13.03 USES PERMITTED BY SPECIAL LAND USE**

- A. Any Wind Energy System which is greater than 65 feet in height.
- B. Met Tower.
- C. Ponds exceeding one (1) acre of surface area.

### **SECTION 13.04 SITE DEVELOPMENT STANDARDS**

- A. Parking lots for uses in the AP District shall be adequately lit to ensure security and safety and shall meet the following requirements:
  - 1. Light fixtures shall be no higher than thirty (30) feet and shall be provided with light cut-off fixtures that direct light downward. Lighting shall not be attached to buildings or other structures that permit light to be directed horizontally.
  - 2. Lighting shall not be permitted to illuminate areas not within the parking lot or other areas related to the use for which the parking is intended.

- B. The storage of finished or unfinished materials, or any equipment or machinery necessary to the operation, is permitted. All storage areas shall be effectively screened by a solid, uniformly finished wall or fence with solid entrance and exit gates no higher than nine (9) feet. Said wall or fence shall in no case be lower than the enclosed storage.
- C. The following dimensional requirements shall be met for any use in this District, unless otherwise provided.

Minimum lot area	20 acres
Minimum lot width	660 feet
Minimum front yard setback	100 feet - No parking area shall be located within the first 15 feet of the front yard. The 15 foot setback area shall be landscaped.
Minimum side and rear yard setback	40 feet – No parking or other paved area, except for driveways, shall be located within the first 15 feet of the required side or rear yards, which shall be landscaped. Side or rear yards adjoining any lot in a Residential District shall be no less than one hundred (100) feet and screened by a compact hedge of deciduous or evergreen trees which reach a minimum of six (6) feet in height and five (5) feet in width after one (1) growing season; or a solid wall or opaque board fence six (6) feet in height; or a combination of these elements.
Maximum building height	Building height peak to grade shall not exceed forty-four (44) feet. Structures related to amusement park rides shall not exceed one hundred twenty five (125) feet.
Maximum lot coverage	50 percent

## **ARTICLE XIV SPECIAL LAND USES**

### **SECTION 14.01 SCOPE**

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

### **SECTION 14.02 APPLICATION AND REVIEW PROCEDURES**

- A. An application shall be submitted through the Township Clerk, accompanied by:
  - 1. the payment of a fee established by the Township Board;
  - 2. a completed application form, as provided by the Township; and
  - 3. a complete site plan as specified in this ordinance.
- B. Applications for a Special Land Use shall be submitted at least thirty (30) days prior to the next Planning Commission meeting.
- C. The application, along with the required site plan, shall be forwarded to the Planning Commission at its next scheduled meeting.
- D. The Planning Commission shall hold a public hearing on the application, providing the notice of such hearing in accordance with the Zoning Act. The Planning Commission shall then review the application and such other information available to it through the public hearing or from any other sources, including recommendations or reports from the Township planner, engineer, or other party. The Planning Commission shall recommend to the Township Board, approval with conditions, or denial and incorporate the basis for the decision and any conditions imposed.
- E. No application for Special Land Use approval, which has been disapproved, shall be resubmitted for a period of one (1) year from the date of disapproval, except as may be permitted after learning of new and significant facts or conditions which might result in favorable action upon re-submittal.
- F. Special Land Use approvals shall be defined in a document and made a matter of record and shall be recorded at the County Register of Deeds.



- G. A Special Land Use approved pursuant to this Article shall be valid for one (1) year from the date of approval. Each development shall be under construction within one (1) year after the date of approval of the Special Land Use, except as noted below:
1. The Planning Commission may grant one (1) six (6) month extension of such time period, provided the applicant requests the extension prior to the date of the expiration of the Special Land Use approval.
  2. The extension shall be approved if the applicant presents reasonable evidence to the effect that said development has encountered unforeseen difficulties beyond the control of the applicant, and the project will proceed within the extension period.
  3. If neither of the above provisions is fulfilled or the six (6) month extension has expired prior to construction, the Special Land Use approval shall be null and void.
- H. The Township Board shall have the authority to revoke any Special Land Use approval after it has been shown that the holder of the approval has failed to comply with any applicable requirements of this Chapter, other applicable sections of this Ordinance, or conditions of the Special Land Use approval. Prior to any action, the Planning Commission shall conduct a public hearing following the notification procedures for the original approval and shall make a recommendation to the Township Board.

#### **SECTION 14.03 GENERAL STANDARDS**

In addition to the standards established for specific uses herein, an application for a Special Land Use shall be reviewed for compliance with the review standards for approval of site plans, and conditions, as authorized in the Site Plan Review requirements of this ordinance may be placed upon a Special Land Use.

- A. Each application shall be reviewed for the purpose of determining that the proposed Special Land Use meets the following standards and, in addition, that each use of 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. be served adequately by essential public facilities and services such as highway, streets, police, fire protection, drainage structures, refuse disposal, water and sewage facilities;
  3. not create excessive additional requirements at public cost for public facilities and services; and
  4. not involve uses, activities, processes, materials, and equipment or conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, glare, or odors.
  5. have adequate parking spaces meeting at least the minimum parking requirements elsewhere in this Ordinance.

- B. The Special Land Use approval may stipulate such additional conditions and safeguards deemed necessary to accomplish the following purposes. Failure to comply with such conditions may result in the revocation of the Special Land Use approval, pursuant to the requirements of this ordinance. Conditions imposed shall be those necessary to:
1. meet the intent and purpose of the Zoning Ordinance,
  2. relate to the standards established in the Ordinance for the land use or activity under consideration,
  3. ensure compliance with those standards,
  4. protect the general welfare,
  5. protect individual property rights, and
  6. ensure that the intent and objectives of this Ordinance will be observed.

#### **SECTION 14.04 SPECIAL LAND USE SPECIFIC REQUIREMENTS**

The general standards and requirements of this ordinance are basic to all Special Land Uses. The specific and detailed requirements set forth in the following Section relate to particular uses and are requirements, which must be met by those uses in addition to the foregoing general standards, and requirements.

A. Adult Uses

1. In the development and execution of this subsection, it is recognized that there are some uses which, because of their very nature, have serious objectionable operational characteristics, particularly when several are concentrated in certain areas, or when located in proximity to a Residential District, thereby having a detrimental effect upon the adjacent areas. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. These controls of this subsection are for the purpose of preventing a concentration of these uses within any one area, or to prevent deterioration or blighting of a nearby residential or other neighborhood. These controls do not legitimize activities, which are prohibited in other Sections of the Zoning Ordinance.
2. Adult uses shall comply with the following requirements:
  - a. The use shall not be located within a 250-foot radius of any Residential District.
  - b. All massage clinics are subject to inspection from time to time by the Township and shall be required to file reports as may be required by the Township, at least annually, as to the names and qualifications of each person who administers massage under the authority or supervision of the massage establishment.
  - c. Establishments where uses subject to the control of this subsection are located shall not be expanded in any manner without first applying for and receiving the approval, as provided herein.

B. Banks, dry cleaners, pharmacies and similar personal services with drive-through service.

1. Sufficient stacking capacity for the drive-through portion of the operation shall be provided to ensure that traffic does not extend into the public right-of-way. A minimum of four (4) stacking spaces for each outdoor drive-up service location, whether personal or automatic, shall be provided.

C. Bed and breakfast establishments.

1. The establishment shall be serviced by approved water and waste treatment services.
2. The establishment shall be located on property with direct access to a paved public road.
3. Such uses shall only be established in a single-family dwelling.
4. Parking shall be located to minimize negative impacts on adjacent properties and not in required front yard.
5. The lot on which the establishment is located shall meet the minimum lot size requirements of the zone district.
6. The total number of guest rooms in the establishment shall not exceed five (5).
7. Exterior refuse storage facilities beyond what might normally be expected for a single-family dwelling shall be screened from view on all sides by a six (6) foot solid, decorative fence to wall.
8. One (1) sign shall be allowed for identification purposes. Such sign shall not exceed sixteen (16) square feet in area, and may not exceed four (4) feet in height. If illuminated, such illumination shall only be of an indirect nature; internally lighted signs are not permitted. Such sign shall be set back at least one-half (1/2) of the front yard setback area of zoning district in which the use is located and shall be located at least fifteen (15) feet from any side or rear lot line.
9. The establishment shall contain the principal residence of the operator.
10. Accessory retail or service uses to a bed-and-breakfast establishment shall be prohibited, including but not limited to gift shops, antique shops, restaurants, bakeries, and other similar uses.
11. Breakfast may be served only to the operator's family, employees, and overnight guests.
12. A guest of such an establishment shall be a person who rents a room therein for fewer than thirty (30) consecutive days.

D. Blueberry farming.

The site plan shall show the following on an appropriately sized scaled drawing:

1. North arrow.
2. Location sketch.
3. Legal description with the liber and page of the deed.
4. Boundary lines of the parcel with bearings and distances.
5. Area of the parcel (acres or square footage).
6. General topographical features (area of woodlands, fields, existing crops, wetlands, roadways or trails, easements).
7. Location of all buildings and improvements on the site.

8. Location of all buildings and driveways, roadways and public easements within 200' of the parcel boundary.
9. 5' contours if the site has more than 10' of elevation in 600'.
10. Proposed locations of all crops, lanes, buildings and any other proposed improvements.
11. Location of ground water and drainage patterns.
12. Screening buffers and accessory building setbacks shall be required at appropriate locations as determined by the Planning Commission.
13. Accessory buildings must comply with the sizes and heights of the Accessory Buildings and Uses ordinance.

E. Cemeteries.

1. Minimum lot area of 10 acres and so designed to provide ingress/egress directly onto or from a public paved street.
2. Location of proposed service roads, entrances, driveways shall be so designed in relationship to the public street that pedestrian and vehicular traffic safety is encouraged.
3. No building shall be closer than fifty (50) feet from any property line.
4. The provisions of PA 368 of 1978 that require local health department review are to be followed.
5. Perimeter fencing of at least four (4) feet shall be required.

F. Cervidae Facilities

1. Cervidae facilities must have a minimum parcel size of 10 acres.
2. The minimum fenced area must be no less than 2 acres.
3. There must be a 10-foot setback from all property lines for all structures including fences.

G. Churches, schools, auditoriums, gymnasiums, community centers and other areas of assembly.

1. Minimum lot area shall be twenty (20) acres.
2. Lot area shall be sufficient to accommodate current size and probable growth.
3. All buildings and structures shall be at least one hundred (100) feet setback from any Residential property line.
4. The site shall front upon a public paved street. All ingress/egress shall be from said thoroughfare.
5. Parking areas shall have a side and rear setback of fifteen (15) feet. Parking area in the required front yard shall be limited to required minimum handicap parking spaces, not to exceed one row.

H. Commercial recreation, including mini-golf, driving ranges, bowling lanes, theaters, indoor skating rinks, billiard parlors or similar uses.

1. Lighting for parking areas or outdoor activity areas shall be shielded to prevent light from spilling onto any Residential District or use.
2. Main buildings shall be set back a minimum of one hundred (100) feet from any Residential District or use.

3. Access driveways shall be located no less than one hundred (100) feet from the nearest part of the intersection of any street or any other driveway.
- I. Commercial storage warehouses.
1. Minimum lot area shall be two (2) acres.
  2. A residence may be permitted on the premises for security personnel or on-site operator. The residence shall conform to the minimum requirements for a single-family dwelling in the LDR District.
  3. One (1) parking space shall be provided for each ten (10) storage cubicles, equally distributed throughout the storage area. The parking requirements may be met with the parking lanes required for the storage area.
  4. Two (2) parking spaces shall also be required for the residence of security personnel or on-site operator employed on the premises.
  5. One (1) parking space shall also be required for every twenty (20) storage cubicles, up to a maximum of ten (10) spaces, to be located adjacent the rental office, for the use of customers.
  6. Parking lanes and access aisles adjacent to the individual storage facilities shall be required. The parking lanes may be eliminated when the access aisle does not serve storage cubicles.
  7. All driveways, parking, loading, storage, and vehicular circulation areas shall be paved.
- J. Funeral homes and mortuary establishments.
1. Minimum lot area shall be two (2) acres with a minimum width of one hundred and fifty (150) feet.
  2. A well designed and landscaped off-street vehicle assembly area shall be provided to be used in support of funeral procession activity. This area shall not obstruct internal circulation within the required off-street parking area or its related maneuvering space.
  3. A caretaker's residence may be provided within the principal building.
  4. The proposed site shall front upon a paved state trunk line, County primary, or County local street. All ingress and egress shall be from said thoroughfare.
- K. Golf courses.
1. Minimum lot size of forty (40) acres for each nine (9) hole regulation golf course, or twenty (20) acres for each nine (9) hole Par 3 style golf course.
  2. All public access shall be directly to and from a paved public road.
  3. All buildings, structures, tees, greens, fairways and other operations shall be located at least one hundred (100) feet from any property line abutting property located in a Residential District, except that pedestrian and cart paths shall be located at least fifty (50) feet from such property lines. Such items shall also be arranged in such a way as to minimize or avoid significant impact on surrounding property and development, including, but not limited to noise, lighting, golf balls and other golfing related activities. Berms, landscaping or other buffers may be required for this purpose.

4. All off street parking areas shall be located at least fifty (50) feet from any property line abutting property located in a Residential District and shall be arranged so as to provide for the safety of pedestrians and ease of maneuverability of all vehicles.
  5. A driving range may be included as an accessory use subject to the following requirements:
    - a. The range must include at least eight hundred (800) feet of depth and sufficient width to provide a clear landing area for golf balls for the driving range tee area. Sufficient width shall mean not less than two hundred (200) feet on either side of the tee area. The use of fencing or netting may also be required but shall not be a substitute for the required minimum area.
    - b. Lighting shall not result in off site glare or unnecessary spillage or intrusion to adjoining property. The applicant shall provide a comprehensive lighting plan for the golf course and driving range with the site plan, including specific details of the off-site impact of the proposed lighting.
    - c. The hours of operation shall start no earlier than thirty (30) minutes after sunrise and no later than 10:00 p.m.
    - d. The driving range shall not include separate public facilities for vehicle access, circulation or parking. Such amenities shall be combined with the primary vehicle access, circulation and parking facilities for the golf course.
  6. A pro shop and restaurant may be included as an accessory use but neither shall have separate public facilities for vehicle access, circulation and parking. Such amenities shall be combined with the primary vehicle access, circulation and parking facilities for the golf course.
- L. Greenhouses and nurseries.
1. A residence may also be located on the same property as the greenhouses and nurseries.
  2. Greenhouses or other structures accessory to the greenhouse or nursery operation shall be located no nearer than 150 feet to any property line.
  3. Minimum lot area shall be 15 acres.
  4. Structures and impervious surfaces shall not exceed 5 percent of lot area.
  5. There shall be no more than two signs having a total size of not more than 32 square feet.
  6. Minimum street frontage shall be 800 feet.
  7. Hours of operation shall be between 7:00 a.m. and 8:00 p.m.  
Parking in accordance with Open Air Businesses must be provided having a surface of 6" of crushed concrete or other comparable material required for gravel streets. In all other ways, parking areas shall meet the township requirements as provided in the parking and loading section of this ordinance.

M. Group and commercial child care homes and facilities.

1. A group child care home shall not be located within fifteen hundred (1500) feet to any of the following:
  - a. Another licensed group child care home.
  - b. An adult foster care small group home or large group home licensed under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737.
  - c. A facility offering substance abuse treatment and rehabilitation services to seven or more people licensed under article 6 of the public health code, 1978 PA 368, MCL 333.6101 to 333.6523.
  - d. A community correction center, resident home, halfway house, or other similar facility which houses an inmate population under the jurisdiction of the department of corrections.
2. All outdoor play areas shall be enclosed by a non-climbable fence that is at least forty-eight (48") inches high.
3. Maintains the property consistent with the visible characteristics of the neighborhood.
4. Does not exceed sixteen (16) hours of operation during a twenty-four (24) hour period. The local unit of government may limit but not prohibit the operation of a group child care home between the hours of 10 pm and 6 am.
5. One (1) identification sign shall be permitted, not exceeding two (2) square feet in area, non-illuminated, and mounted flat against the wall of the dwelling.
6. One (1) off-street parking space shall be provided for each non-family employee of the group day care home in addition to the parking normally required for the residence. A driveway may be used to fulfill this requirement

<b>Institutional</b>	
Group and commercial day care homes and group care facilities	One (1) space for each four (4) clients

7. The applicant shall provide evidence of the ability to comply with all applicable State licensing requirements.
8. For a city or village, a group child care home may be issued a special use permit, conditional use permit, or other similar permit.
9. A licensed or registered family or group child care home that operated before March 30, 1989 is not required to comply with the requirements of this section.
10. The requirements of this section shall not prevent a local unit of government from inspecting and enforcing a family or group child care home for the home's compliance with the local unit of government's zoning ordinance. For a county or township, an ordinance shall not be more restrictive for a family or group child care home than as provided under 1973 PA 116, MCL 722.111 to 722.128.
11. The subsequent establishment of any of the facilities listed under subsection (4)(a) will not affect any subsequent special use permit renewal, conditional use permit renewal, or other similar permit renewal pertaining to the group child care home.
12. The requirements of this section shall not prevent a local unit of government from issuing a special use permit, conditional use permit, or other similar permit to a licensed or registered group child care home that does not meet the standards listed under M. of this section.

13. The distances required under M. 1. of this section shall be measured along a road, street, or place maintained by this state or a local unit of government and generally open to the public as a matter of right for the purpose of vehicular traffic, not including an alley.

N. Hotels and motels.

1. Minimum lot area shall be four (4) acres and minimum lot width shall be two-hundred (200) feet.
2. Parking areas shall have a front yard setback of twenty (20) feet and side and rear yard setbacks of ten (10) feet.
3. Access driveways shall be located no less than fifty (50) feet from the nearest part of the intersection of any street or any other driveway.

O. Intensive Livestock Operations.

1. Minimum lot area shall be forty (40) acres.
2. The operation shall be set back a minimum of five hundred (500) feet from property lines, one thousand (1,000) feet from an adjacent Residential District or use, and five hundred (500) feet from a standing body of water or flowing stream.
3. No harm to adjacent property owners shall result from direct runoff from the site upon which the proposed operation is located.

P. Junk Yards/ Salvage Yards.

1. Requests for a Special Land Use approval for establishment of a salvage or junk yard shall also require submission of a detailed proposal identifying the predominant type of salvage or junk to be received, the methods of separation and/or recycling, and ultimate destination of waste materials. The applicant shall be required to submit written materials. The applicant shall be required to submit written materials outlining measures taken to comply with all necessary state, county, and local laws.
2. The site shall be provided with suitable access to a County Primary or State Trunk line to ensure safe, direct transport of salvage to and from the site.
3. No portion of the storage area shall be located within two hundred (200) feet of any Residential District or use property line.
4. Any outdoor storage area shall be completely enclosed by a fence or wall at least six (6) feet in height constructed of a sturdy, durable material and sufficiently opaque to ensure that salvage is not visible outside the storage area. The fence or wall shall have a minimum of two (2) non-transparent gates not exceeding forty-eight (48) feet in width providing access to the storage area for vehicles but shall not allow direct view of the storage area from adjacent properties or streets. Said fence or wall shall be continuously maintained in good condition and shall contain only approved signs.
5. Stored materials shall not be stacked higher than ten (10) feet and shall be stored in a manner, so as not to be visible from adjoining properties or rights-of-way. In no case shall salvage or junk be stored at a height exceeding the height of the storage area fence or wall.
6. The fence or wall enclosing the storage area shall meet the applicable building setback requirements.



7. A management office shall be provided on site. A residence may be permitted for security personnel or on-site operator.
8. Conditions within the storage area shall be controlled to minimize the hazards of fire and other threats to health and safety.
9. All portions of the storage area shall be accessible to emergency vehicles.
10. Vehicles or vehicle bodies shall be stored in rows with minimum of twenty (20) foot continuous loop drives separating each row of vehicles.
11. All batteries shall be removed from vehicle and all radiators and fuel tanks shall be drained prior to the vehicle being placed in the storage yard. Salvaged batteries, oil and other such substances shall be removed by a licensed disposal company or be stored in a manner which prevents leakage of battery fluid. No fluids removed from vehicles shall be applied as a dust control method. Maximum storage of tires in any one location shall be limited to one hundred (100) tires, with separation of a minimum of one hundred (100) feet from any other combustible material location.
12. Vehicle parts shall not be stored, loaded, unloaded, or dismantled outside the fence enclosing the salvage yard.
13. Minimum site size for such facilities shall be six (6) acres.
14. All fences shall be set back of minimum of fifty (50) feet from any Residential District or use property line.
15. In order to protect surrounding areas, the crushing of vehicles or any part thereof shall be limited to daylight hours.
16. The Planning Commission may impose other conditions, such as greenbelts, landscaping, and other items, which have a reasonable relationship to the health, safety and general welfare of the Township. These conditions can include a provision for an annual inspection by the Zoning Administrator to ensure continuing compliance with the above standards.

**Q. Kennels.**

1. The minimum lot size shall be twenty (20) acres in the Rural Residential district.
2. Buildings wherein animals are kept, dog runs, and/or exercise areas shall not be located nearer than two hundred fifty (250) feet from lot line in the Rural Residential district.
3. All principal use activities, other than outdoor dog run areas, shall be conducted within a totally enclosed main building, and shall be escape proof to the extent possible.
4. Outdoor activities shall be conducted between 7 AM – 11 PM.

**R. Marinas and public or private launches.**

1. There shall be no above ground storage of gasoline, fuel oil, or other flammable liquids or gases.
2. No building, structure, dock, or parking area which is part of a marina shall be located closer than thirty-five (35) feet to any residential lot line.
3. Adequate parking facilities shall be provided for the overnight storage of boats, trailers, or other vehicles.

S. Multiple-family dwellings.

1. All dwelling units shall have a minimum of eight hundred (800) square feet per unit, or as otherwise may be required by this ordinance.
2. Parking areas shall have a front yard setback of twenty (20) feet and side and rear yard setbacks of ten (10) feet.
3. Access driveways shall be located no less than fifty (50) feet from the nearest part of the intersection of any street or any other driveway.
4. Buildings shall not be constructed closer to any other building than a distance of twenty-five (25) feet.
5. The maximum building length shall be not more than one hundred twenty (120) feet.
6. Lighting for parking areas or outdoor activity areas shall be shielded to prevent light from spilling onto any Residential District or use.

T. Open Space Preservation Option

1. The purpose of this section is to provide owners of property zoned in certain residential zones to construct dwellings on smaller sized parcels in exchange for the creation of areas that will remain undeveloped in perpetuity state, all in accordance with the Zoning Act.
2. Certain land zoned for residential development may be developed, at the option of the landowner, with the same number of dwelling units that could otherwise be developed on the land under existing ordinances, laws and rules, on not more than 50 percent of the land, if all of the following apply:
  - a. The land is zoned at a density equivalent to two or fewer dwelling units per acre (currently RR, LDR, MDR, MHDR, or if the land is served by a public sewer system, three or fewer dwelling units per acre).
  - b. Not less than 50 percent of the land area will remain perpetually in an undeveloped state by means of a conservation easement, plat dedication, restrictive covenant or other legal means that runs with the land.
  - c. The development does not depend upon the extension of a public sewer or public water supply system unless development of the land without the exercise of this development option would also depend upon such an extension.
  - d. This development option has not previously been exercised with respect to the subject property.
3. This development option is subject to all other applicable ordinances, laws and rules, including, but not limited to:
  - a. The provisions of the zoning ordinance that are not in conflict with and preempted by the Zoning Act.
  - b. The Land Division Act (formerly the Subdivision Control Act, MCL 560.101, et seq).
  - c. Any ordinance regulating the division of land, the platting of land into subdivisions or the creation of a site condominium.

- d. Rules relating to the suitability of groundwater for on-site water supply for land not served by public water.
- e. Rules relating to the suitability of soils for on-site sewage disposal for land not served by public sewers.

As used in this section, the term “undeveloped state” means a natural state preserving natural resources, natural features or scenic or wooded conditions; agricultural use; open space; or a similar use or condition. This term does not include a golf course, but may include a recreational trail, picnic area, children’s play area, green way or linear park.

- 4. The following regulations shall apply to any property owner who elects to use this development option:
  - a. In no event shall required lot width, road frontage or minimum lot area be reduced to less than 50% of the requirements of the zoning district in which the property is located.
  - b. Property that may not otherwise be built upon, such as wetlands, flood plains or water, shall not count towards meeting the requirement of having 50% of land in an undeveloped state.
  - c. The only permitted uses shall be those that are permitted in the district in which the subject property is located.
  - d. The density (dwelling units per acre) shall not exceed the density of the zoning district in which the subject property is located. When more than one district is involved, the density of the project shall be the average of the districts, weighted in direct proportion to the size of the subject property within the project in each district.
  - e. Land in an undeveloped state shall not contain any accessory structures.
  - f. The documents that commit land to be in a perpetually undeveloped state shall be reviewed and approved by the township and must be recorded before final approval or the issuance of any permits. The property owner must also provide adequate proof to the township that permanent provisions for the maintenance of the undeveloped property are in place.
  - g. The township shall have the right to require the property owner to make modifications to the proposed plans for streets and street access, structure location, parking, utilities, pedestrian routes, recreational facilities and the preservation and enhancement of natural features.
- 5. The property owner shall follow the procedural requirements applicable to PUD’s set forth in Section 14.04 (R)(3). In addition to plans for the proposed development, the property owner shall also submit a parallel plan for the proposed development showing how the property would be developed if this development option was not available. The purpose of the parallel plan shall be to give the township a reference to assist them in reviewing the proposed development. The township board shall not be required to hold a public hearing before approving the project.

U. Open air businesses.

1. Minimum lot area shall be one (1) acre.
2. Minimum lot width shall be two hundred (200) feet.
3. Except in the Agricultural Overlay District, the Planning Commission may require a six (6) foot fence or wall to be constructed along the rear or sides of the lot to keep trash, paper, and other debris from blowing off the premises.
4. All open-air businesses shall comply with all applicable Health Department regulations regarding sanitation and general health conditions.
5. The applicant may be required to furnish a financial guarantee in accordance with this Ordinance to ensure strict compliance with any regulation contained herein and required as a condition of special land use approval.
6. The lot area used for parking shall be hard-surfaced and the display or storage areas shall be provided with a permanent, durable, and dustless surface, and shall be graded and drained so as to dispose of all surface water.
7. Ingress and egress shall be provided as far as practicable from two (2) intersecting streets and shall be at least one hundred (100) feet from an intersection.
8. All lighting shall be shielded from adjacent residential areas.
9. In the case of a plant materials nursery:
  - a. The storage or materials display areas shall meet all the yard setback requirements applicable to any building in the District.
  - b. All loading activities and parking areas shall be provided on the same premises (off-street).
  - c. The storage of any soil, fertilizer, or similar loosely packaged materials shall be sufficiently contained to prevent any adverse effect upon adjacent properties.
10. No display area shall be located within ten (10) feet of a road right-of-way line.

V. Public or private boat launches. (See Marinas and public or private launches)

W. Public and private campgrounds.

1. Minimum lot size shall be thirty (30) acres.
2. For campgrounds the lot shall provide direct vehicular access to a public street or road. The term lot shall mean a campground or travel trailer park.
3. Public stations, housed in all-weather structures, containing adequate water outlet, waste container, toilet and shower facilities shall be provided. All sanitary facilities shall be designed and constructed in strict conformance to all applicable County health regulations.
4. No commercial enterprise shall be permitted to operate within the grounds, except that a convenience shopping facility may be provided. Such convenience store, excluding laundry and similar ancillary uses, shall not exceed a maximum floor area of one thousand (1000) feet.
5. Each lot shall provide hard surfaced, dust free vehicle parking areas for site occupant and guest parking. Such parking area shall be located within four hundred (400) feet of the site it is intended to serve (except in the case of sites specifically designated only for tent camping).

6. Each campground site shall contain a minimum of one thousand five hundred (1,500) square feet, be set back at least one hundred (100) feet from any public or private right-of-way or property line, and have direct access to a hard surfaced, dust free roadway.
7. All roadways serving the use shall be at least twenty-four (24) feet in width for two-way traffic and twelve (12) feet in width for one-way traffic. Parking shall not be allowed on any roadway.
8. Any open drainage ways must have seeded banks sloped at least 3:1 and designed to properly drain all surface waters into the County drain system, subject to approval by the Drain Commissioner of Muskegon County.
9. All sanitary facilities shall be designed and constructed in strict conformance to all applicable County health regulations.
10. A minimum distance of fifteen (15) feet shall be provided between all travel trailers and tents.
11. Side and rear setbacks for campsites, buildings, structures and facilities from property lines must be at least one hundred (100) feet.
12. Property must be screened by six (6) foot fencing or proper greenbelt when adjacent to a residential use.

X. Public and private parks.

1. Minimum lot size shall be three (3) acres.
2. Public stations housed in all-weather structures, containing adequate water outlet, waste container, toilet and shower facilities shall be provided. All sanitary facilities shall be designed and constructed in strict conformance to all applicable County health regulations.
3. Lighting for parking areas or outdoor activity areas shall be shielded to prevent light from spilling onto any Residential District or use.

Y. Removal and processing of topsoil, stone, rock, sand, gravel, lime or other soil or hard mineral resources.

1. No soil, sand, gravel, or other earth material shall be removed from any land within the township without Special Land Use approval, with the following exceptions:
  - a. When the earth removal is incidental to construction for which a building permit has been issued by the Township;
  - b. When the earth removal involves any normal landscaping, driveway installation and repairs, or other minor projects;
  - c. The earth removal will not alter predominate drainage patterns or cause drainage impacts to adjoining properties;
  - d. The earth removal involves less than five hundred (500) cubic yards;
  - e. The earth removal is for the purpose of construction of a swimming pool;
  - f. The soil removal will not be in violation of any other sections of this ordinance, other Township ordinances, Part 91 of Act 451 of 1994, or any other applicable state or federal law.

2. In addition to the materials required by this Article, the application for special land use approval shall include the following:
  - a. A written legal description of all of the lands proposed for the use.
  - b. Eight (8) copies of a plan for mineral removal, drawn and sealed by a registered civil engineer, and shall include:
    - (1) A north arrow, scale, and date;
    - (2) shading indicating the extent of land area on which mineral removal operations and activities will take place;
    - (3) the location, width, and grade of all easements or rights-of-way on or abutting the lands;
    - (4) an engineering plan;
    - (5) the location and nature of all structures on the lands;
    - (6) the location and direction of all watercourse and flood control channels, which may be affected by mineral removal operations;
    - (7) existing elevations of the lands at intervals of not more than five (5) feet;
    - (8) typical cross sections showing the estimated extent of overburden, estimated extent of mineral material location in or on the lands, and the water table;
    - (9) mineral processing and storage areas;
    - (10) proposed fencing, gates, parking areas, and signs;
    - (11) roads for ingress to and egress from the lands, including on-site roads, other areas to be used for movement of vehicles and a description of the proposed measures to limit dust generated by mineral removal activities.
    - (12) a map showing access routes between the subject lands and the nearest County Primary Arterial Road; and
    - (13) areas to be used for ponding.
  - c. A narrative description and explanation of the proposed mineral removal operations and activities; including the date of commencement, proposed hours and days of operation, estimated type and quantity of mineral to be removed, description of extraction and processing methods, including proposed equipment and the noise rating of each type thereof, and summary of the procedures and practices which will be used to ensure compliance with the conditions of this subsection.
  - d. Applicant shall make evident undertakings to accomplish the rehabilitation plan and demonstrate financial ability to perform the fulfillment of rehabilitation plan. A site rehabilitation plan shall include the following:
    - (1) A description of planned site rehabilitation and end-use(s), including methods of accomplishment, phasing, and timing;
    - (2) a plan showing final grades of the lands as rehabilitated, at contour intervals not exceeding five (5) feet; water courses, ponds, or lakes, if any; landscaping and plantings; areas of cut and fill; and all of the components of the proposed end-use(s); and

- (3) a description of proposed methods of features which will ensure that the end-use(s) are feasible and will comply with the Township Master Plan and all applicable requirements of this Ordinance.
  - e. The Planning Commission may require an environmental impact statement, engineering data, or other additional information concerning the need for and consequences of such extraction if it is believed that the extraction may have an adverse impact on natural topography, drainage, water bodies, floodplains, or other natural resources.
3. Each site rehabilitation plan shall be reviewed by the Planning Commission and shall comply with all of the following standards and requirements:
- a. Topsoil shall be replaced on the site to a depth of not less than six (6) inches, except where the end-use activities or features do not involve the planting of lawns or growing of vegetation. Slopes shall be graded and stabilized to such extent as will accommodate the proposed end-use. The plan shall indicate the phasing of site rehabilitation, if the same is to take place in phases, and if so, topsoil shall be replaced and slopes shall be graded and stabilized before mineral removal operations or activities are commenced in another area of the site.
  - b. Final slopes shall have a ratio of not more than one (1) foot of elevation to three (3) feet of horizontal distance.
  - c. Plantings of grass, shrubs, trees and other vegetation shall be made so as to maximize erosion protection, screen less attractive areas of end-uses, and enhance the beauty of the site as rehabilitated.
4. A minimum lot size of twenty (20) acres and minimum lot width of three hundred and thirty (330) feet shall be required for any commercial removal operation for soil, sand, gravel, or other earth material established as a principal use on any lot or parcel.
- a. Not less than six (6), nor more than fifteen (15) acres of land shall be authorized for operations or activities at any one time. Of this number or some lesser number of acres, not more than 1/3 thereof shall at any one time be used for site preparation, not more than 1/3 thereof shall at any one time be used for sand and gravel removal and not more than 1/3 thereof shall at any one time be used for site reclamation. Each such area not exceeding fifteen (15) acres shall be restored, reclaimed and improved in accordance with the site rehabilitation plan submitted to and approved by the Planning Commission, and in compliance with the terms and conditions or requirements of this Article.
4. No machinery shall be erected or maintained within one hundred (100) feet of any property or street line. No machinery shall emit noise measured at a distance of fifty feet when operating, and shall not be closer than ¼ mile to the nearest occupied dwelling, unless consented to in writing. No cut or excavation shall be

made closer than fifty (50) feet to any street right-a-way line or property line in order to ensure sub lateral support to surrounding property. The Planning Commission may require greater distances for the location of machinery, storage or parking of equipment or limits of excavation where the site is located in or within two hundred (200) feet of any Residential or Commercial District.

6. The Planning Commission shall recommend routes for truck movement to and from the site in order to minimize the wear on public streets and to prevent hazards and damage to properties in the community. Access roads within the area of operation shall be provided with a dustless surface and the entry road shall be hard surfaced for a distance established by the Planning Commission to minimize dust, mud, and debris being carried onto the public street.
7. Proper measures, as determined by the Zoning Administrator shall be taken to minimize the nuisance of noise and flying dust or rock. Such measures may include, when considered necessary, limitations upon the practice of stockpiling excavated material upon the site.
8. Mineral removal, processing and transportation operations and activities shall commence not earlier than 7:00 a.m. and shall continue not after 6:00 p.m. on weekdays, nor shall they take place at any time during weekends, provided, however, that the Planning Commission may further limit the hours or days of operation if the Planning Commission determines in their recommendation to the Fruitland Township Board that such further limitation is required in order to avoid serious adverse effects upon adjoining or nearby lands.
9. During activities and operations for the removal of mineral material, no mineral material or other excavated materials shall be left during weekends or overnight in such condition or manner as to constitute a danger to children or others who may enter the removal areas. All banks of excavated material shall be graded to slopes having a vertical to horizontal ratio of not greater than one (1) foot of elevation for each two (2) feet of horizontal distance, after the cessation of daily operations, provided, however, that the Planning Commission may require some lesser daily grading requirement if the applicant provides a substantially constructed and maintained welded wire fence, or fence of equally substantial material, of at least four (4) feet in height, so located that any slopes steeper than one (1) foot of elevation for each two (2) feet of horizontal distance cannot inadvertently be approached by any persons who may enter the removal area.
10. The Planning Commission may require compliance with such other conditions as may be necessary to ensure compliance with the terms of this subsection. Such conditions may include, though need not be limited to, weed controls, erosion and sedimentation controls, fencing and visual screening, requirements for groundwater monitoring wells, preservation of trees and other vegetation, and fuel loading and storage requirements.



11. An applicant for a permit shall submit a performance bond in accordance with the requirements of this Ordinance, naming the Township of Fruitland as the insured party and conditioned upon the timely and faithful performance by the applicant of all of the terms and conditions of the permit. The bond shall have such other terms and shall be in such amounts as is recommended by the Planning Commission as reasonably necessary to ensure compliance with all of the terms and conditions of this subsection and the permit.
  - a. The performance bond shall not be refunded, reduced, or transferred until mineral removal operations and activities, land reclamation or restoration, and all other required activities have received final inspection by the Zoning Administrator and until the Planning Commission has determined that the applicant, or its successor, has fully complied with all of the terms and conditions, of the permit.
  - b. The timely and faithful compliance with all the provisions of the performance bond shall be a condition of any mineral removal operations. In the absence of any such compliance with the terms of the performance bond, or if the same is revoked or it expires or is not renewed, the Planning Commission need not approve the renewal of any permit, even if the applicant has otherwise complied with all other terms and provisions of the current permit.

Z. Restaurants, including those with drive-through service.

1. Sufficient stacking capacity for the drive-through portion of the operation shall be provided to ensure that traffic does not extend into the public right-of-way. A minimum of ten (10) stacking spaces for the service ordering station shall be provided. Stacking spaces shall be located so as not to interfere with vehicular circulation and egress from the property by vehicles not using the drive-through portion of the facility.
2. In addition to parking space requirements, at least three (3) parking spaces shall be provided, in close proximity to the exit of the drive-through portion of the operation, to allow for customers waiting for delivery of orders.
3. Parking areas shall have a front yard setback of twenty (20) feet and side and rear yard setbacks of ten (10) feet.
4. Public access to the site shall be located at least one hundred (100) feet from any intersection as measured from the nearest right-of-way line to the nearest edge of said access.
5. The parking and maneuvering areas of the site shall be fenced and screened from the view of any abutting Residential District or use by a decorative fence or wall, or a landscaped equivalent.
6. Outdoor speakers for the drive through facility shall be located in a way such that sound transmission is inaudible to neighboring property and uses.

AA. Retail and wholesale materials and building supplies.

1. Minimum lot width shall be two hundred (200) feet, unless a greater width is required by the zoning district requirements of the lot in which the site is located.
2. The Planning Commission may require a six (6) foot fence or wall to be constructed along the rear and/or sides of the lot to keep trash, paper, and other debris from blowing off the premises.
3. Ingress and egress shall be provided as far as practicable from two (2) intersecting streets and shall be at least one hundred (100) feet from an intersection.
4. All lighting shall be shielded from adjacent Residential Districts or uses.
5. The storage or materials display areas shall meet all the yard setback requirements applicable to any principal building in the district.

BB. Riding stables.

1. Minimum lot area shall be forty (40) acres.
2. No parking shall be permitted in the required front yard.
3. No storage of manure or odor or dust producing material or use shall be permitted within seventy-five (75) feet of any property line and shall be stored in such a manner, not to become a nuisance or health hazard.

CC. Roadside stands.

1. A five (5) foot fence or wall shall be constructed along the rear and sides of the area used for such use, capable of keeping trash, paper, and other debris from blowing off the premises.
2. Access driveways shall be located no less than fifty (50) feet from the nearest part of the intersection of any street or driveway.
3. No lighting shall be provided for any such use.
4. Adequate parking spaces shall be provided, but not less than three (3).

DD. State licensed residential care facilities.

Small group facility:

1. A state licensed small group care facility shall not be located within fifteen hundred (1500) feet of another such similar state licensed facility.
2. One (1) on-site parking space shall be provided for each employee in addition to parking required for the dwelling unit. The driveway may be used for this purpose.
3. The property shall be maintained in a manner that is consistent with the character of the neighborhood.
4. Notice to neighbors and/or neighborhood associations is highly recommended, though not required to promote the integration of adult foster care residents into the neighborhood.

Large group facility:

1. A state licensed large group care facility shall not be located within fifteen hundred (1500) feet of another such similar facility.
2. One on-site parking space shall be provided for each employee in addition to parking required for the dwelling unit or other accessory uses.
3. A designated passenger loading/unloading area of adequate dimensions shall be provided near a barrier free entrance to the facility.
4. A loading/unloading area of adequate dimensions shall be provided for delivery vehicles servicing the facility.
5. A landscaped buffer shall be provided along all property lines that abut a less intense land use and around the visible perimeters of all parking and loading/unloading areas.
6. All exterior lighting of entryways, parking spaces, or loading/unloading areas shall not reflect onto adjacent properties and, preferably, should be motion activated.
7. Notice to neighbors and/or neighborhood associations is highly recommended, though not required to promote the integration of adult foster care residents into the neighborhood.

EE. Wireless Communications Equipment and Wireless Communications Support Structures in excess of fifty feet in height.

1. Wireless communications equipment which is proposed to be mounted or attached to a newly installed wireless communications support structure which will exceed a height of fifty feet, or a proposed collocation subject to the provision of Section 3.36 B. 1. e., may be allowed in the RR and LDR zoning districts, only when a special land use permit is approved by the Planning Commission subject to the regulations and requirements of this Section, the General Standards for approval in Section 14.03, and all application and review procedures of Article XIV.
2. Antennas for Wireless Communications Equipment and Wireless Communications Support Structures shall be required to locate on an existing or approved tower within a one-mile radius of the proposed tower unless one or more of the following conditions exists:
  - i. The planned wireless communications equipment would exceed the structural capacity of the existing approved tower or building, as documented by a qualified and registered engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost;
  - ii. The planned wireless communications equipment would cause interference materially affecting the usability of other existing or planned equipment at the tower or building as documented by a qualified and registered professional engineer and the interference cannot be prevented at a reasonable cost;

- iii. Existing or approved towers and buildings within a one-mile radius cannot accommodate the planned wireless communications equipment at a height necessary to function reasonably as documented by a qualified and registered professional engineer; and
  - iv. Other unforeseen reasons that make it infeasible to locate the planned wireless communications equipment upon an existing tower or building.
- 3. Wireless Communications Equipment and Wireless Communications Support Structures shall be designed, (structurally, electrically, and in all other respects), to accommodate both the applicant's wireless communications equipment and comparable equipment for at least two additional users in anticipations of future improvements in technology and demand for such services. Towers must be designed to allow for future rearrangement of wireless communications equipment upon the tower to accept equipment mounted at varying heights;
- 4. Wireless Communications Equipment and Wireless Communications Support Structures shall be designed to blend into the surrounding environment through the use of color and architectural treatment, except in instances where color is dictated by other state or federal authorities. Towers shall be of a monopole design unless the Planning Commission determines that an alternative design would better blend into the surrounding environment.
- 5. Any part of the support structures or wireless communications equipment placed on the ground shall comply with the following setbacks:
  - i. Residential Districts: The Planning Commission shall not approve any placement of any Wireless Communications Equipment and/or Wireless Communications Support Structures where any part of such is located within two-hundred feet of any Residential District lot line;
  - ii. Nonresidential Districts: Any part of a Wireless Communications Equipment and Wireless Communications Support Structure or associated equipment shall be set back for a distance equal to the setbacks for main buildings for the district in which it is located, except that in no case shall such support structures or wireless communications equipment be located less than twenty-five feet from any adjacent lot line or main building, nor less than two-hundred feet from any Residential District lot line; and
  - iii. These provisions shall not apply to towers located on existing buildings, towers, or other existing structure.

6. The Planning Commission may require such support structures or wireless communications equipment on the ground to be screened with landscaping, berms, walls, or a combination of these elements;
7. Wireless Communications Equipment and Wireless Communications Support Structures shall not be illuminated unless required by other state or federal authorities. No signs or other advertising not related to safety or hazard warnings shall be permitted on any part of the tower or associated wireless communications equipment or support structures.
8. Wireless Communications Equipment and Wireless Communications Support Structures which are abandoned or unused shall be removed, along with any associated support structures or wireless communications equipment, within twelve months of the cessation of operations, unless a time extension is granted by the Zoning Administrator. A three-month extension shall be permitted one time only if the Zoning Administrator finds that the owner or former operator of the telecommunications facility is taking active steps to ensure its removal.
9. Procedures:
  - i. An application for a Special Land Use Permit for wireless communications equipment and wireless communication support structures shall be reviewed for completeness by the Zoning Administrator or his/her agent. An application shall be considered complete if it contains all of the information contained in Sections 3.36 B. 2. and 3. Within fourteen days of receiving the application the Zoning Administrator shall notify the applicant in writing of any missing items. Failure to do so shall mean that the Special Land Use Permit application is considered complete (but not approved);
  - ii. Once a completed application is received, a public hearing shall be scheduled in accordance with the requirements of Article XXI of this Ordinance;
  - iii. The Planning Commission shall render a decision on a completed application within sixty days of its receipt. Failure to do so shall result in the approval of the application as submitted. In the case of special land use approval for wireless communications equipment that does not meet the requirements of Section 3.36 B. 1. a., the period for approval or denial is ninety days;
  - iv. Any conditions imposed upon the approval of the Special Use Permit shall relate directly to the requirements of this Zoning Ordinance and any applicable Township ordinances as well as applicable State of Michigan and federal laws;

- v. Application Requirements. In addition to application requirements as required by Article XIV, an application for wireless communications equipment and wireless communications support structures which require Special Land Use approval shall include all of the following information. The fee paid by the applicant shall not exceed the actual costs to process the application or one thousand dollars, whichever is less.
- a. Proposed Use – A complete written and graphic description of the proposed wireless communications equipment and wireless communications support structure. This shall include an illustration of the antenna and support structure to be installed and its design including cross section and elevation drawings and a diagram of how the tower/antenna will be anchored;
  - b. Location Justification – Written materials which document the need for the proposed location;
  - c. Ownership Interest – The nature and extent of the applicant’s ownership or lease interest in the property, building or support structure upon which the telecommunications facility is proposed for placement;
  - d. Other Tower Locations – A map depicting other locations of wireless communications support structures within three miles of the proposed site;
  - e. Collocations – Documents that the applicant has investigated the potential of collocation with other wireless communication service providers or owners of wireless communications support structures located in Fruitland Township or neighboring communities and which may meet the coverage needs of the applicant. The documentation must include written evidence that the applicant has had direct communication and response regarding the potential for collocation with the owners/operators of such other wireless communications support structures. All applications for construction of a wireless communications support structure will be required to provide plans for future collocation with other owners/operators at a fair and reasonable rental rate;

- f. Engineering Certification and Plans – A statement that the proposed wireless communications equipment and wireless communications support structure will be installed in accordance with the manufacturer’s specifications and applicable Township codes. A set of drawings sealed by a professional engineer for the installation of the wireless communications equipment and wireless communications support structure shall also be provided;
  - g. A description of the tower maintenance program;
  - h. A decommissioning plan explaining the process to be undertaken by the applicant for tearing down the tower and removing all tower wireless communications equipment, materials and support structures and restoring the site so it can be used by a use permitted in that Zoning District; and
  - i. Security measures including emergency contact personnel.
- vi. Site Plan Requirements. Eight copies of a site plan accurately drawn at a scale of not more than one-inch equals one- hundred feet. However, a larger scale may be accepted by the Planning Commission depending upon the size of the parcel. The plan shall be prepared and sealed by a professional engineer. The site plan shall contain at a minimum the information required by Section 3.36 C. and any information required by Article XV Site Plan Review of this Ordinance, or as may be required by the Planning Commission unless specifically waived by the Planning Commission;
  - vii. Performance Standards. Wireless communications equipment and wireless communications support structures shall comply with all of the following requirements:
    - a. The tower and antenna shall comply with all applicable state construction and electrical codes and local building permit requirements as well as the manufacturer’s installation requirements provided, they do not conflict with the state and local requirements;
    - b. All tower lighting required by the FAA shall be shielded to the extent possible to reduce glare and visibility from the ground. The tower shaft shall not be illuminated unless required by the FAA, and the minimum FAA lighting standards shall not be exceeded;

- c. The applicant shall provide written documentation of compliance with the Michigan Airport Zoning Act (Public Act 23 of 1950) and the Michigan Tall Structures Act (Public Act 259 of 1959);
  - d. The maximum height of a wireless communications support structure and any attached wireless communications equipment shall be two hundred feet. A structure greater than two hundred feet may be approved, if in the opinion of the Planning Commission, the applicant has sufficiently demonstrated that the proposed support structure and attached wireless communications equipment in excess of two hundred feet will be safe and also reduce the total number of potential similar support structures within Fruitland Township and the surrounding areas;
  - e. The antenna or tower shall be permanently secured to a stable foundation;
  - f. No part of the antenna or tower shall conduct or display any advertising, message or other graphic representation;
  - g. All antennas and towers must be grounded to protect against damage from lightning;
  - h. All towers shall be located so that they do not interfere with any reception in nearby residential areas. In the event a communication tower causes interference, the wireless telecommunications company shall take all steps necessary to correct and eliminate such interference; and
  - i. The use of guy wires is prohibited. Only monopole towers are allowed.
- iii. Approval Standards. In order to approve the application, the Planning Commission shall find that:
- a. The proposed use and support structure meet the Special Land Use General Standards of Section 14.03;
  - b. The proposed use and support structure meet requirements of this Section 14.03 EE.;
  - c. Approval of the project will fill a significant gap in the service coverage of the applicant; and



- d. That alternate sites or telecommunications facilities for the wireless communications equipment and wireless communications support structure are not available or feasible.
- iv. Conditions of Approval. Any conditions imposed on an approval must relate directly to this Ordinance, other applicable Township ordinances and codes and applicable State and federal laws; and
- v. Noncompliance with Section 14.03 EE. Requirements. If the Planning Commission determines to deny an application for Special Land Use Permit approval because the proposed project does not meet one or more of the requirements contained in Section 14.03 EE. or any of the special land use or site plan standards found elsewhere in this Ordinance the Planning Commission shall nevertheless approve the proposed project if no other alternative telecommunications facility sites or are available or feasible and at least one of the following applies:
  - a. A denial would prohibit (or have the effect of prohibiting) the providing of personal wireless service to the area in question;
  - b. There is not substantial evidence on the record justifying a denial; or
  - c. A significant gap in the existing service coverage exists in the area and the proposed project would close that gap.

Pursuant to any such approval by the Planning Commission, the wireless communication support structure and wireless communications equipment shall still comply with all of the requirements of Section 14.03 EE. and other applicable provisions of this Ordinance except to the extent that the applicant demonstrates that compliance with a particular requirement or regulation would (a) prohibit or have the effect of prohibiting the providing of personal wireless services to the area, or (b) prohibit the applicant from closing a significant gap in existing service coverage to the area involved.

- FF. Utility and public service buildings, without storage yards, but not including essential public services such as poles, wires, and underground utility systems.
  - 1. Any such buildings shall be generally compatible, with respect to material and color, with the surrounding neighborhood.
  - 2. Any such building shall comply with the yard setback requirements of the district in which it is located.

GG. Vehicle service stations, excluding body shops.

1. Minimum lot area shall be one (1) acre.
2. Minimum lot width shall be one hundred and fifty (150) feet.
3. All buildings, structures, and equipment shall be located not less than fifty (50) feet from any side or rear lot line abutting a Residential District.
4. No more than one (1) curb opening shall be permitted for every seventy-five (75) feet of frontage (or major fraction thereof) along any street, with a maximum of one (1) per street when located on corner lot, and one (1) for any other street.
5. No drive or curb opening shall be located nearer than seventy-five (75) feet to any intersection nor more than twenty-five (25) feet to any adjacent Residential District property line. No drive shall be located nearer than fifty (50) feet, as measured along the property line, to any other driveway. A driveway shall not be permitted where, in the opinion of the Planning Commission, it may produce a safety hazard to adjacent pedestrian or vehicular traffic.
6. A raised curb of six (6) inches in height shall be constructed along the perimeter of all paved and landscaped area.
7. The entire lot, excluding the area occupied by a building, shall be hard-surfaced with a concrete or bituminous surface. All areas not paved or occupied by buildings or structures shall be landscaped.
8. All lubrication equipment, hydraulic hoists, and pits shall be enclosed entirely within a building. All gasoline pumps shall be located not less than fifty (50) feet from any lot line, and shall be arranged so that motor vehicles shall not be supplied with gasoline or serviced while parked upon or over-hanging any public sidewalk, street or right-of-way.
9. When adjoining residentially zoned property, parking and storage areas shall be fenced and screened from the view of any abutting Residential District or use by a decorative fence or wall, or a landscaped equivalent.
10. All outside storage areas for trash, used tires, auto parts and similar items shall be enclosed by a six (6) foot sight-obscuring wall or fence. No such outside storage area shall exceed an area of two hundred (200) square feet. Outside parking of disabled, wrecked, or partially dismantled vehicles (not to exceed a maximum of five (5) such vehicles) shall not be permitted for a period exceeding ten (10) days.
11. The rental of trucks, trailers, and any other vehicles on the premises is expressly prohibited without specific approval by the Planning Commission. If such use is permitted, proper screening, landscaping, and additional parking area shall be provided in accordance with the requirements set forth by the Planning Commission.
12. The lot shall be located such that it is at least three hundred (300) feet from an entrance or exit to any property on which is situated a public library, public or private school, playground, play field, park, church or hospital.
13. All exterior lighting, including signs, shall be erected and hooded so as to shield the glare of such lights from view by adjacent property.
14. On a corner lot, both street frontage sides shall be subject to all the applicable front yard provisions of this Ordinance.
15. Where applicable, vehicle queuing space shall be provided in front of each service bay for at least two (2) vehicles.

HH. Vehicle wash establishments, either self-serve or automatic.

1. All washing activities must be carried on within a building.
2. Vacuuming activities may not be conducted in the front yard setback area.
3. Sufficient space shall be provided to accommodate all vehicles queuing on the property, so no vehicles are required to wait on an adjoining street to enter the site.

II. Veterinary hospitals and animal clinics.

Buildings wherein animals are kept, dog runs, and/or exercise areas shall not be located nearer than one hundred (100) feet to any adjacent occupied dwelling or any adjacent building used by the public, and shall not be located in any required front, rear or side yard setback area.

JJ. Wind Energy System (WES)

1. All requirements for a site plan contained in Article 15.
2. Dimensions of the area purchased or leased which is to contain the WES.
3. Location and height of all existing and proposed buildings, structures, electrical lines, towers, guy wires, guy wire anchors, security fencing, and any other above-ground structures proposed or existing for the parcel or parcels containing the WES.
4. Specific distances from the WES structures to all other buildings, structures, and above ground utilities on the parcel or parcels upon which the WES is proposed to be located.
5. Location of all existing and proposed overhead and underground electrical transmission or distribution lines, located on the lot or parcel(s) upon which the WES or is proposed to be located, as well as within 300 feet of the boundaries of the parcel(s).
6. Locations and height of all buildings and structures within 300 feet of the exterior boundaries of the lot or parcel where the WES is proposed to be located.
7. Height elevations of all WES buildings and structures and the elevations of all existing and proposed structures within 300 feet of the parcel(s) upon which the WES is proposed to be located.
8. Land uses within 300 feet of the parcel.
9. Access drives to the WES including dimensions and composition, with a narrative describing proposed maintenance of the drives.
10. All lighting proposed for the site, including diagrams of lighting fixtures proposed if requested by the Planning Commission.
11. Security measures proposed to prevent unauthorized trespass and access.
12. Standard drawings of the structural components of the WES, including structures, towers, bases, and footings. A registered engineer with the appropriate experience shall certify drawings and any necessary calculations that show that the system complies with all applicable local, state, and federal building, structural and electrical codes.
13. The height of a WES for which a Special Land Use Permit is required shall be determined by compliance with the Federal Aviation Association requirements; however, lighting is prohibited according to township requirements.

14. A planning commission approved decommissioning plan indicating 1) the anticipated life of the project, 2) the estimated decommissioning costs net of salvage value in current dollars, 3) the method of ensuring the funds will be available for decommissioning and restoration, and 4) the anticipated manner in which the project will be decommissioned and the site restored.

**KK. Ponds exceeding one (1) acre of surface area.**

1. All requirements of Article III, General Provisions, Section 3.17 Excavations, holes or ponds must be met in addition to the requirements of this section.
2. A pond or ponds totaling more than one (1) acre must be located on a parcel of a minimum of ten (10) acres and the surface area of said pond must not exceed 20% of the parcel size.
3. State approval shall be required prior to the construction of any pond over five (5) acres in size.
4. The regulations herein also pertain to a retention/detention pond for a site.
5. An engineered assessment of the site indicating how the surface waters of the pond will be obtained, ex: ground water, precipitation water, well supplied water or a combination of these and estimation of evaporation rates from the pond.
6. A detailed topographical survey of the site with 1-foot contour intervals detailed enough to indicate both drainage and emergency drainage patterns.

**LL. Historic Resorts**

1. Purpose. The purpose of this section is to recognize existing resorts which have contributed to the historic character of Fruitland Township and to provide an opportunity for these resorts to remain viable by allowing such uses to upgrade and redevelop their facilities in order to provide contemporary resort amenities in accordance with current Township goals and requirements. Specifically, the objectives of this section are:
  - a. To allow existing resorts which are non-conforming to be able to redevelop and modernize their facilities by seeking a Special Use Permit without changing the historical aesthetic character of the resort.
  - b. To allow existing resorts to be re-developed with a mix of uses, structures, buildings and housing types typical of a resort community in a manner which preserves the residential character of existing and planned residences on nearby properties and consistent with the Township's zoning ordinances.
  - c. To preserve and protect the shoreline of resort property abutting White Lake.
  - d. To preserve the natural features of the site as much as is practicable while allowing for alterations and improvements to the resort without increasing the historical footprint of the resort.;

- e. To permit an appropriate number, type, design and location of lodging facilities which will avoid overcrowding of the land, achieve compatibility with nearby land uses and allow for continuation of the resort as a viable business
2. Applicability. The provisions of this Section 14.04LL shall only be applicable to Parcel Numbers 61-06-245-005-0001-00 which is the only historical resorts located within the Inland Lakes Zoning District in existence and operating as of the effective date of this Ordinance amendment July 5, 2016. Only historic resorts located in the Inland Lakes Zoning District that were in existence and operating as of the effective date of this Ordinance amendment may be issued a special land use permit in accordance with the procedures and requirements of this Section.
  3. Historical Resort Permitted uses Subject to Planning Commission Site Plan Review
    - a. Single family detached dwelling units including cabins, cottages, and ranch houses.
    - b. Two family attached dwelling units (duplexes).
    - c. Multi-family buildings with more than one dwelling unit per building.
    - d. A lodge building offering individual rooms for rent with a lobby, gathering room and a restaurant for use by resort guests and which may also be open to the general public.
    - e. Motel type building with individual housekeeping units.
    - f. Recreational facilities and activities typically provided by a resort including but not limited to: tennis courts, ball fields, bike and walking paths, playground, community buildings, swimming pool, campfire area, beach and water activities, shuffle board, mini-golf and similar recreational facilities but excluding camping and recreational vehicle use.
    - g. Outdoor dining areas.
    - h. Multi-purpose buildings which are designed for non-residential use such as conferences, assemblies, meeting rooms, and gatherings of a similar nature.
    - i. Gift shop.
    - j. Accessory uses structures and buildings which are customarily associated with allowed uses.
  4. Historical Resort Permitted uses Subject to Approval by the Township Board following recommendation by the Planning Commission. The following uses may be allowed but only when specifically authorized by the Township Board provided such uses are determined to be compatible with nearby residential land uses and as recommended by the Planning Commission. In allowing such uses the Board may attach conditions to ensure such activities do not have an adverse effect on nearby lands and residents and are consistent with the historical use.
    - a. Wedding receptions, graduation parties, family reunions, and other similar outdoor gatherings and uses not exceeding 150 persons which are typically associated with a resort.

- b. Boat docks and slips, either temporary or permanent.
  - c. Outdoor music.
  - d. Other uses which are determined by the Township Board to be similar to those listed above which are typical to a resort operation.
  - e. Any wedding reception, graduation party, family reunion, and other similar outdoor gatherings and uses that exceeds 150 persons which are typically associated with a resort must seek specific Township Board approval.
5. Procedures for Special Land Use permit for historic resorts.
- a. No resort will be deemed to be in compliance with this ordinance without have first sought an application for and obtained a special land use permit complying with the submittal requirements of Section 14.02 of this Ordinance which shall include a site plan illustrating all existing site conditions and proposed improvements and other requirements of Article XV Site Plan Review, Section 15.03 Site Plan Review Requirements. In addition, the applicant shall provide the following information:
    - i. Number and type of dwelling units existing and proposed;
    - ii. Outdoor recreation facilities currently offered and any proposed;
    - iii. Boat docks and slips existing and proposed;
    - iv. Number and location of existing and proposed parking spaces;
    - v. List of uses, services, events and activities currently offered and proposed other than those listed above.
  - b. In approving a special land use application, the Board may impose conditions in accordance with Section 14.03.B herein. Such conditions may include but are not limited to regulating the days and hours of outside events and activities, requiring additional landscaping and setbacks above what is required by this Ordinance and correcting existing situations on the property which are having an adverse impact on nearby properties such as drainage, noise from outside activities, exterior lighting and parking of vehicles. Further the Board may attach conditions to ensure such events and uses do not have an adverse effect on nearby lands and residents and are consistent with historical uses made by the resort.
  - c. Any changes proposed to a site plan approved as part of a special land use under this section shall comply with the provisions of Article XV, Site Plan Review, Section 15.06 Changes in the Approved Site Plan.

- d. In the event an Historical Resort has been issued a Special Land Use permit in accordance with this section and seeks to make its facilities available for wedding receptions, graduation parties, family reunions, outdoor music events and like outdoor gatherings and uses determined by the Board to be similar to those set forth above and typical of a resort of like size, the resort shall submit annually, or semiannually, its calendar of such events to the Board for consideration and approval on such forms as approved by the Board from time to time and shall pay such permit fees as may be established by the Board from time to time. In approving such events and uses the Board may attach conditions to ensure such events and uses do not have an adverse effect on nearby lands and residents and are consistent with historical uses made by the resort.
6. Procedures for Special Land Use permit for historic resorts.

Any person owning or operating land for which a Special Land Use has been approved shall notify the Zoning Administrator of any proposed amendment to the approved Special Land Use or any conditions attached to the approval of the Special Land Use and site plan. Any proposed change to the conditions that were attached to the approval of the Special Land Use or any proposed change to the Special Land Use itself shall be reviewed by the Planning Commission, which shall determine if the proposed changes constitute a major or minor change.

A major change is defined as a change in the conditions of approval or the Special Land Use which would substantially alter the intensity of the use of the property so as to call into question compliance with the Special Land Use approval standards of Section 14.03.A herein.

Examples of a major change may include but are not limited to a substantial increase in the hours of operation, an expansion of the land area devoted to outdoor activity, an increase in the intensity of the use which would increase traffic or a change in the conditions of approval which may result in an adverse impact on nearby residents or property.

In addition, a major change would also include expanding the land area that was approved for the existing Special Land Use and expanding the building containing the use if such expansion would increase the intensity of the use.

Any major change shall be considered in the same manner as set forth in Section 14.02 of this Ordinance which would require a public hearing. A minor change requested for a Special Land Use may be approved by the Planning Commission without a public hearing.

If the requested changes apply only to a component of an approved site plan which is part of an approved Special Use the requirements of Article XV, Site Plan Review, Section 15.06 Changes in the Approved Site Plan shall apply.

7. Development Requirements

- a. General -Any new buildings, structures or expansions of existing buildings or structures shall comply with the requirements of the Inland Lakes Zoning District Chapter and other applicable requirements of this Zoning Ordinance except as noted herein.
- b. Parking – The number of off-street parking spaces proposed to serve the resort shall be as approved by the Township Board following a recommendation from the Planning Commission and shall comply with the ADA Standard for Accessible Design. The Planning Commission shall base its recommendation on the historical parking needs of the existing resort, the number of dwelling units and lodging rooms, the uses and services offered by the resort to the general public such as a restaurant, wedding receptions and conference space and the parking requirements of this Zoning Ordinance. The Commission and Board shall have the authority to approve temporary off-street parking on pervious surfaces for events provided it is designed for safe ingress and egress. All other parking requirements of Article XVI Parking and Loading shall be met.
- c. Utilities - The resort shall be served by either a private or community owned well and septic system approved by the Muskegon County Health Department or by a public water and sanitary sewer system.



## **ARTICLE XV SITE PLAN REVIEW**

### **SECTION 15.01 PURPOSE**

The purpose of this Article is to provide for consultation and cooperation between the applicant and the Planning Commission in order that the applicant may realize planned objectives in the use of land within the regulations of this Zoning Ordinance. It is also intended to ensure that the development be completed with minimum adverse effect on the use of adjacent streets and highways, and on the existing and future uses and the environment in the general vicinity.

### **SECTION 15.02 SITE PLANS REVIEWED**

In accordance with the provisions of this Article, the Planning Commission shall be furnished a Site Plan of the proposed development prior to the creation of a use or the erection of a building in the Districts and conditions cited below:

- A. All Permitted Uses, including the construction of a building addition, shall require a Site Plan Review except those specifically excepted; these are limited to single-family and two-family dwellings, agricultural uses, family day care homes, family group care facilities, home occupations and Wind Energy Systems under 65 feet.
- B. Special Land Uses in all Zoning Districts.
- C. Site condominiums, or condominiums of any type in any Zoning District.
- D. Subdivisions.
- E. Land Divisions of ten (10) or more parcels.
- F. Township Board, Planning Commission, Zoning Administrator or Building Inspector may require a Site Plan Review if circumstances warrant, even if not required under A, B, C, D or E above.
- G. Planned Unit Developments.

### **SECTION 15.03 SITE PLAN REVIEW REQUIREMENTS**

- A. Pre-preliminary Site Plan Review – Option of Applicant
  - 1. If desired by the applicant, ten (10) copies of a pre-preliminary site plan may be submitted for review by the Planning Commission prior to preliminary site plan submittal. The purpose of such procedure is to allow discussion between the applicant and the Planning Commission, to better acquaint the applicant of the planning policies of the township and compliance with zoning ordinance and conformance with review standards prior to incurring extensive engineering and other costs which might be necessary for site plan approval.

Pre-preliminary conference suggested information. In order to gain maximum benefit from the pre-preliminary application conference the proprietor should submit the following information for the entire tract of land, whether or not the tract will be developed in stages:

- a.) Property dimensions and area;
  - b.) The concept, objectives, general layout and location and extent of the various uses and facilities to be incorporated within the development, including a general layout of the proposed street system, lot sizes and lot configuration;
  - c.) Proprietor's interest in the property, and verification of all persons having ownership in the parcel.
  - d.) Stages of development;
  - e.) A site analysis showing which of the site conditions the proprietor intends to retain or modify as part of the basic design of the development;
  - f.) Description of natural features, general topographic and general soil conditions on the site. Information is available from the county department of public works;
  - g.) Aerial photograph of the site and surrounding area, with the site clearly defined. (Photos are available from the Muskegon County Equalization Department.)
  - h.) Description of manmade or cultural features, existing and proposed, surrounding the site;
2. Pre-preliminary site plans should be shown to scale. This conceptual plan should show natural features, contour intervals of ten (10) feet or less, zoning of the parcel and contiguous parcels, and any information necessary to inform the commission and the public of the concept of the project and the effect of the design on the parcel and the surrounding area.

**B. Preliminary Site Plan Review**

- 1. The applicant must submit twelve (12) copies of a preliminary site plan for review by the Planning Commission. Three (3) copies of which if approved shall be signed and dated by the Secretary of the Planning Commission and the applicant. One (1) of these approved copies shall be kept on file by the Township Clerk, one (1) shall be kept on file by the Zoning Administrator, and one (1) shall be returned to the applicant or his designated representative. The purpose of such procedure is to approve, approve with conditions or deny the plan with specific findings that are to be documented and become a part of the record.
- 2. Preliminary site plans shall include the following, unless deemed unnecessary by the Planning Commission:
  - a. Small scale sketch of properties, streets and use of land within one half (1/2) mile of the area, including the zoning of surrounding property.
  - b. Twelve (12) copies of a site plan to scale. The scale shall not be less than 1"=20' for property under three (3) acres and at least 1"=100' for those three (3) acres or more. Under special circumstances scales other than the above may be approved by the zoning administrator if granted prior to submittal.

The following items shall be shown on the plan:

- (1) Existing adjacent streets and proposed streets.
- (2) Lot lines and dimensions.
- (3) The date, north arrow, and scale.
- (4) The seal, name, and firm address of the professional individual responsible for the preparation of the site plan.
- (5) The name and address of the property owner and petitioner, if different.
- (6) A location sketch.
- (7) Legal description of the subject property.
- (8) The size (in acres) of the subject property and each unit or lot allocated to each proposed use and gross area in building, structures, parking, public and/or private streets and drives, and open space.
- (9) Traffic impact study which describes internal circulation and projected impacts on traffic operation, capacity, and access on adjacent and nearby streets which are likely to provide access to the site.
- (10) Drains
- (11) Proposed buffer strips or screening.
- (12) Significant natural features; and other natural characteristics, including but not limited to open space, stands of trees, streams, wetlands, ponds, floodplains, hills and similar natural assets.
- (13) Existing and proposed buildings
- (14) General topographical features including contour intervals no greater than two (2) feet
- (15) All buildings and driveways within one hundred (100) feet of all property lines.
- (16) The location and size of all surface water drainage facilities.
- (17) Recreation areas, common use areas, flood plain areas and areas to be conveyed for public use and purpose.
- (18) A narrative (shown on the site plan or submitted separately) describing in general terms:
  - a. An overall description of the proposed development.
  - b. Approximate number of acres allocated to each proposed use and gross area in building, structures, parking, public and/or private streets or drives, and open space.
  - c. Dwelling unit densities by type, if applicable.
  - d. Proposed method of providing sewer and water service, as well as other public and private utilities.
  - e. Proposed method of providing storm drainage.
- (19) Preliminary approvals from all necessary regulatory agencies.
- (20) Proposed Restrictive Covenants or Condominium Documents.
- (21) The following additional items shall be shown on a Commercial Site Plan:
  - a. Parking lots and access points.
  - b. Location and size of any signs.
  - c. The location and dimensions of all existing and proposed structures on the subject property including dwelling unit densities by type, if applicable.

- d. The existing zoning and use of all properties abutting the subject property.
  - e. The location of all existing vegetation and the location, type, and size of all proposed landscaping, and the location, height and type of existing and proposed fences and walls.
  - f. Size and location of existing and proposed utilities, including any proposed connections to public or private community sewer or water supply systems.
3. The Planning Commission shall review the preliminary site plan and make such recommendations to the applicant that will cause the plan to be in conformance with the review standards required by this Article. The Planning Commission shall advise the applicant as to the acceptability of the proposed plan. The applicant shall be bound by any statements or indications of acceptance of the plan and final approval shall be dependent upon the final project being completed as per the preliminary approval and the approval of all necessary regulatory agencies.

C. Final Site Plan Review

The purpose of the final review is to have the applicant submit the final copies of the plats and documents prior to recording. Staff shall review the Subdivision Plat, the Certificate of Survey or the Condominium Documents (Exhibits A & B) for compliance with the respective acts, review the final approvals of the required regulatory agencies and compare the final plan with the approved preliminary plan. The Planning Commission shall review the staff report and verify that the project meets all the requirements and has been built or designed according to the approved preliminary site plan. If the final plan is not in compliance with the above requirements the plan may be denied. If denied the applicant may reapply when the deficiencies are corrected. Reapplication for final approval must occur within one year of the preliminary approval or any granted extensions.

- 1. Ten (10) copies of a site plan prepared by a professional competent in such matters must be submitted for review.
- 2. Applications for site plan reviews shall include the following information, unless deemed unnecessary by the Planning Commission:
  - a. The date, north arrow, and scale.
  - b. The seal, name, and firm address of the professional individual responsible for the preparation of the site plan.
  - c. The name and address of the property owner and petitioner, if different.
  - d. A location sketch.
  - e. Legal description of the subject property.
  - f. The size (in acres) of the subject property and each unit or lot allocated to each proposed use and gross area in building, structures, parking, public and/or private streets and drives, and open space.
  - g. Traffic impact study which describes internal circulation and projected impacts on traffic operation, capacity, and access on adjacent and nearby streets which are likely to provide access to the site.

- h. All requirements necessary for recording of Drawings and Documents.
- i. Final approvals of all necessary regulatory agencies.

**SECTION 15.04 APPLICATION AND REVIEW**

- A. Site plans, a completed preliminary application form, and an application fee established by the Township Board, shall be submitted by the petitioner or designated agent, at least thirty (30) days prior to the next regular Planning Commission meeting. The Zoning Administrator shall cause the submittal to be placed on the agenda of the next regular Planning Commission meeting.
- B. The Planning Commission shall hold a public hearing on the application, providing the notice of such hearing in accordance with the Zoning Act.
- C. Upon receipt of an application for Site Plan Review, the Applicant shall transmit one (1) copy of the site plan to each of the following agencies considered to be impacted or affected by the request, for their review and comment. In some cases agency review may require an onsite visit and an associated fee, which the applicant is responsible for.
  - 1. Muskegon County Road Commission.
  - 2. Muskegon County Health Department.
  - 3. Muskegon County Drain Commissioner.
  - 4. White Lake Fire Authority.
  - 5. Muskegon Conservation District.
- D. The Planning Commission shall have the responsibility and authorization to approve, disapprove, or approve subject to conditions, the site plan, in accordance with the provisions of this Article and the purpose of this Ordinance. The Planning Commission may require the applicant to furnish a financial guarantee, in accordance with this Ordinance, to ensure conformance by the applicant. Final action shall be taken by the Planning Commission within ninety (90) days after fully completed application and site plan has been received by the Township.
- E. Any conditions or modifications desired by the Planning Commission shall be recorded in the minutes.
- F. Each development shall be under construction within one (1) year after the date of approval of the site plan, except as noted below:
  - 1. The Planning Commission may grant two (2), six (6) month extensions of such time period, provided the applicant requests, in writing, an extension prior to the date of the expiration of the site plan.
  - 2. The extension shall be approved if the applicant presents reasonable evidence to the effect that said development has encountered unforeseen difficulties beyond the control of the applicant, and the project will proceed within the extension period.
  - 3. If neither of the above provisions are fulfilled or the six (6) month extension has expired prior to construction, the site plan approval shall be null and void.

**SECTION 15.05 RECORDED SUBDIVISIONS, CONDOMINIUMS AND LAND DIVISION REQUIREMENTS**

**A. RECORDED SUBDIVISIONS**

In those instances, in which Act 288, Public Act of 1967, as amended, the Land Division Act, is involved, the owner shall, after site plan approval, submit the preliminary and final plats to the proper officer in conformance with Act 288, and in accordance with all other applicable codes, acts and ordinances. Such plats shall remain in conformance with the approved Site Plan.

**B. CONDOMINIUMS**

In those instances, in which Act 59 of 1978, as amended is involved the Township shall require the owner provide a full-size copy of the plan submitted to the register of deeds of the exhibit B plan and a copy of the recorded entire "Master Deed".

**C. LAND DIVISIONS**

In those instances, in which parcels of land are being divided other than condominiums or recorded subdivisions the Township shall require the owner provide a copy of the Certified Survey recorded at the Muskegon County Register of Deeds as per Public Act 132 of 1970, as amended.

**SECTION 15.06 CHANGES IN THE APPROVED SITE PLAN**

Changes to the approved site plan shall be permitted only under the following circumstances:

- A. The holder of an approved site plan shall notify the Zoning Administrator of any proposed change to an approved site plan.
- B. Minor changes, in compliance with this Ordinance, may be approved by the Zoning Administrator upon determining that the proposed revision(s) will not alter the basic design nor any specified conditions imposed as part of the original approval. Minor changes shall include the following:
  - 1. Change in the building size, up to five (5%) percent in total floor area.
  - 2. Movement of buildings or other structures by no more than ten (10) feet.
  - 3. Replacement of plant material specified in the landscape plan with comparable materials of equal or greater size.
  - 4. Changes in building materials to a comparable or higher quality.
  - 5. Changes in floor plans which do not alter the character of the use.
  - 6. Changes required or requested by the Township, the Muskegon County Road Commission, or other County, State, or Federal regulatory agency in order to conform to other laws or regulations.
- C. A proposed change not determined by the Zoning Administrator to be minor shall be submitted to the Planning Commission as a site plan amendment and shall be reviewed in the same manner as the original application.

## **SECTION 15.07      REVIEW STANDARDS**

The following standards shall be utilized by the Planning Commission in reviewing all site plans. These standards are intended to provide a frame of reference for the applicant in the preparation of site plans as well as for the reviewing authority in making judgment concerning them. These standards shall not be regarded as inflexible requirements. They are not intended to discourage creativity, invention, or innovation.

- A.     The uses proposed will not adversely affect the public health, safety, or welfare. Uses and structures located on the site shall take into account topography, size of the property, the uses on adjoining property and the relationship and size of buildings to the site. The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this Ordinance.
  
- B.     Safe, convenient, uncontested, and well-defined vehicular and pedestrian circulation shall be provided for ingress/egress points and within the site. Drives, streets and other circulation routes shall be designed to promote safe and efficient traffic operations and shall use significant traffic calming designs that will reduce speeds naturally, use green islands and curved roads to slow traffic naturally within the site and at ingress/egress points.
  
- C.     The arrangement of public or private vehicular or pedestrian connections to existing or planned streets in the area shall be planned to provide a safe and efficient circulation system, for traffic within Fruitland Township.
  
- D.     Removal or alteration of significant natural features shall be restricted to those areas which are reasonably necessary to develop the site in accordance with the requirements of this Ordinance. The Planning Commission may require that landscaping, buffers, native habitats, and/or greenbelts be preserved and/or provided to ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property. Every effort shall be made to preserve native ecological communities and minimize impacts to fish and wildlife. Utilities shall be installed to be harmonious with the site and all adjacent property.
  
- E.     Areas of natural drainage such as swales, wetlands, ponds, or swamps shall be protected and preserved in their natural state to provide areas for natural habitats, preserve drainage patterns and maintain the natural characteristics of the land.
  
- F.     The site plan shall provide reasonable visual and sound privacy for all dwelling units located therein, and adjacent thereto. Fences, walls, barriers, and landscaping shall be used, as appropriate, to accomplish these purposes.
  
- G.     All buildings and groups of buildings shall be arranged so as to permit necessary emergency vehicle access as requested by the White Lake Fire Authority.
  
- H.     All streets and driveways shall be developed in accordance with Fruitland Township Private Street Design Standards, the Township Subdivision Control Ordinance, the Muskegon County Road Commission, or Michigan Department of Transportation

specifications, as appropriate. Except that the Planning Commission may impose more stringent requirements than those for the Road Commission or Department of Transportation with the respect to driveway location and spacing. No residential street shall provide connection or access to industrial or commercial property.

In addition, sidewalks may be required if appropriate for the development.

- I Traffic impact study which describes internal circulation and projected impacts on traffic operation, capacity, and access on adjacent and nearby streets which are likely to provide access to the site.
- J. Appropriate measures shall be taken to ensure that removal of surface waters will not adversely affect the neighboring properties, aquatic resources, or the public storm drainage system. Provisions shall be made to accommodate storm water, prevent erosion and the formation of dust. The use of detention/retention ponds may be required. Surface water on all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicular or pedestrian traffic or create puddles in paved areas. Catch basins may be required to contain oil filters or traps to prevent contaminants from being discharged to the natural drainage system. The Site Plan shall fully conform to the Muskegon County Soil Erosion and Sedimentation Control Ordinance. In addition, methods to employ Low Impact Development (LID) techniques are strongly encouraged. LID techniques promote source controls of storm water and maintain the natural hydrological cycle by: preserving open space and minimizing land disturbances; protecting natural features and natural processes; re-examining the use and sizing of traditional infrastructure (lots, streets, curbs, gutters, and sidewalks); integrating natural site elements (wetlands, stream corridors, mature forests) into site designs; and decentralizing and managing storm water at its source. Such techniques include a permeable pavement, grassy swales, bio retention/rain gardens, infiltration trenches and basins, filter strips, tree box filters, cisterns, dry wells, rain barrels and similar best management practices set forth in the State of Michigan's Low Impact Development Manual.
- K. Any exterior lighting shall be arranged so that it is deflected away from adjacent properties and so that it does not interfere with the vision of motorists along adjacent streets. Lighting of buildings or structures shall be minimized to reduce light pollution and preserve the rural character of the Township.
- L. All loading and unloading areas and outside storage areas, including areas for the storage of trash, which face or are visible from Residential Districts or public streets, shall be screened by a vertical screen consisting of structural or plant materials no less than six (6) feet in height. The finished side of any wall, fence, or other screen shall face adjacent properties.
- M. Entrances and exits shall be provided at appropriate locations so as to maximize the convenience and safety for persons entering or leaving the site. The number of entrances to and exits from the site shall be determined with reference to the number of dwelling units or other land uses within the site, the nature and location of the surrounding streets, the effect of traffic in the area, nearby topography, and other factors.



- N. Site plans shall conform to all applicable requirements of County, State, Federal and Township statutes and ordinances. Approval may be conditioned on the applicant receiving necessary County, State, Federal and Township permits before final site plan approval or and occupancy permit is granted.
- O. Hazardous Waste Management shall consist of all precautions to prevent hazardous materials from entering the environment.
- P. Appropriate fencing may be required by the Planning Commission around the boundaries of the development if deemed necessary to minimize or prevent trespassing or other adverse effects on adjacent lands.
- Q. The general purposes and spirit of this Ordinance and the Master Plan of Fruitland Township shall be maintained.
- R. A public sanitary sewer system or an approved privately-owned community sewer system shall be required unless the township determines as follows:
  - 1. The soils and terrain will not substantially limit the use of septic tanks because of wetlands, steep slopes, flooding, percolation, ponding or other topographical characteristics based on information from the Michigan Department of Environmental Quality or the Muskegon County Health Department.
  - 2. The lack of a public sanitary sewer system or privately-owned community sewer system will not have an adverse affect on area lakes, the watershed involved or other environmental factors.
- S. A public water system or an approved privately-owned community water supply system shall be required unless the township determines as follows:
  - 1. The soils and terrain will not substantially limit the use of private water wells based on information from the Michigan Department of Environmental Quality or the Muskegon County Health Department.
  - 2. The lack of a public water system or a privately-owned community water system will not adversely affect area lakes, the watershed involved or other environmental factors.
- T. All abandoned or out of service underground storage tanks shall be removed in accordance with applicable local, state and federal law.

**SECTION 15.08        CONDITIONS OF APPROVAL**

- A. As part of an approval to any site plan, the Planning Commission, as applicable, may impose any additional conditions or limitations as in their judgment may be necessary for protection of the public interest.
- B. Such conditions shall be related to and ensure that the review standards of this Article are met and shall meet the requirements of the Zoning Act.

- C. Approval of a site plan, including conditions made as part of the approval, shall apply to the property described as part of the application and to all subsequent owners.
- D. A record of conditions shall be maintained. The conditions shall remain unchanged unless an amendment to the site plan is approved in accordance with this Ordinance.
- E. A record of the decision of the Planning Commission, the reason for the decision reached, and any conditions attached to such decision shall be kept and made part of the minutes of the Planning Commission.
- F. The Zoning Administrator and/or Building Inspector may make periodic investigations of developments for which site plans have been approved. Non-compliance with the requirements and conditions of the approved site plan shall be a violation of this ordinance and subject to the enforcement provisions of Article XX. If a violation of a condition occurs during the development process, the township may immediately revoke all approvals and terminate all work in progress.

**SECTION 15.09 FILING AND RECORDING PROCEDURES**

As a condition of receiving final approval, the applicant shall provide the following items to the township:

- A. One reproducible copy of the final approval on mylar or other dimensionally stable material and four paper prints.
- B. One copy of the development drawings in final approved form in an AutoCAD compatible, digital media format.

# **ARTICLE XVI**

## **PARKING AND LOADING**

### **SECTION 16.01 SCOPE**

In all Zoning Districts, off-street parking facilities for the storage and parking of self-propelled motor vehicles for the use of occupants, employees and patrons of the building's hereafter erected, altered or extended after the effective date of this Ordinance, shall be provided as herein prescribed. Such space shall be maintained and shall not be encroached upon so long as said main building or structure remains, unless an equivalent number of such spaces are provided elsewhere in conformance with this Ordinance.

### **SECTION 16.02 LOCATION OF PARKING**

The off-street parking required by this Article shall be provided in accordance with the following requirements:

- A. One and Two-family Dwellings: The off-street parking facilities required for one and two-family dwellings shall be located on the same lot or plot of ground as the building they are intended to serve, but shall not be considered a parking lot under the provisions of this Article.
- B. Multiple-Dwellings: The off-street parking facilities for multiple-family dwellings shall be located on the same lot or plot of ground as the dwellings they are intended to serve, and shall consist of a parking lot, as defined in this Article. In no event shall any uncovered parking space for any multiple-family dwelling be located nearer than ten (10) feet to any main building.
- C. Manufactured Home Park: The off-street parking required may be located on each site or in parking lots conveniently located and readily accessible to each site. Each parking space must meet minimum area requirements.
- D. Other Land Uses: The off-street parking required may be located on each site or in parking lots within three hundred (300) feet of and readily accessible to each site.

### **SECTION 16.03 PARKING LOT REQUIREMENTS**

- A. All parking facilities, access driveways, and commercial storage areas (excluding those for single and two-family dwellings outside manufactured home parks) shall be hard surfaced with a pavement having an asphalt or concrete binder, shall be graded and drained so as to dispose of surface water which might accumulate within or upon such area, and shall be completely constructed prior to a Certificate of Occupancy being issued.
- B. In all Zoning Districts, the pavement surfacing of the portion of any driveway between the right-of-way and the edge of the roadway surface shall be hard surfaced if the roadway is hard surfaced.

- C. All illumination for all parking lots in the Commercial Districts, non-residential uses, and multiple-family developments shall be deflected away from adjacent residential areas and shall be installed in such a manner as to allow the reduction of the amount of light on other than normal parking hours each day. The source of illumination in all parking lots abutting a Residential District or use shall not be higher than fifteen (15) feet above the parking lot surface.
- D. When a required non-residential parking lot is situated on a parcel which adjoins a Residential District, abutting directly across a roadway, the respective side or rear yard in which said parking is located shall contain a minimum setback of twenty (20) feet excluding any parking or drives, unless a greater setback is required by any other provision in this Ordinance.
- E. Required non-residential parking lots abutting a Residential District or use shall be effectively screened from neighboring Residential Districts and uses by a decorative fence or wall, or a landscaped equivalent.
- F. Adequate ingress and egress to the parking lot, by means of limited and clearly defined drives, shall be provided for all vehicles. Such drives shall be located so as to minimize traffic conflicts with adjoining uses and roadways.
- G. Wheel stops shall be provided and so located as to prevent any vehicle from projecting over the lot or setback lines. Such devices shall be securely anchored into the parking lot to ensure that they remain stationary.
- H. Plans for the layout of off-street parking facilities shall be in accordance with the parking space dimensions of this Ordinance. The minimum parking space dimensions for a layout not provided for in the regulations shall be nine (9) feet in width, eighteen (18) feet in length, and one hundred and sixty-two (162) square feet in area.

**SECTION 16.04      PARKING LOT PLANS**

- A. The construction of any parking lot shall be in accordance with the requirements of the provisions of this Ordinance and such construction shall be completed and approved by the Zoning Administrator before actual use of the property as a parking lot and before a Certificate of Occupancy is issued.
- B. Plans for the development of any parking lot must be submitted to the Zoning Administrator, prepared at a scale of not less than one (1) inch equals fifty (50) feet and indicating existing and proposed grades, drainage, pipe sizes, dimensions of typical parking spaces, type of curbing, drive and aisle dimensions, lighting, adjacent main buildings, sidewalks, landscaping, surfacing and base materials to be used, and the layout of the proposed parking lot. The plans are to be prepared in a presentable form by person or persons competent in such work and shall conform to the provisions of the Parking and Loading requirements of this ordinance.

**SECTION 16.05      PARKING RESTRICTIONS**

- A. In any District, it shall be unlawful to use required off-street parking areas for the storage or parking of vehicles in excess of twenty-four (24) hours, except as may be permitted for a commercial use.

- B. It shall be unlawful for any person to park or store any motor vehicle without the express written consent of the owner, holder, occupant, lessee, agent, or trustee of such property. In no case shall vehicles be parked in any required off-street parking lot for the sole purpose of displaying such vehicle for sale, except in approved and licensed car sales lots.
- C. It shall be unlawful for the owner, holder, occupant, lessee, agent, or trustee of any lot in a Residential District to permit or allow the open storage or parking, either day or night, thereon of trucks (over one (1) ton), semi-trucks and trailers, manufactured home, construction equipment, and/or any other similar equipment or machinery for commercial purposes for a period exceeding forty-eight (48) hours. However, the owner, tenant, or lessee of an agricultural use may openly store operable machinery and equipment necessary to be parked on a lot, parcel or tract of land during work thereon, providing it is not within 200 feet of any road right-of-way.
- D. No vehicle storage or display shall be permitted within any road right-of-way. On-street parking is permitted in locations specifically designated by public authority for on-street parking. On-street parking spaces shall not be counted toward the required parking for any use.

**SECTION 16.06 OFF-STREET PARKING REQUIREMENTS**

- A. Minimum required off-street parking spaces are noted in the table below for the uses listed. Additional parking may be required as part of site plan approval. For those uses not specifically mentioned, the requirements for off-street parking shall be in accord with a use in which the Zoning Administrator considers similar in type.
- B. When units of measurement determining the number of required off-street parking spaces result in the requirement of a fractional space that fraction shall require one (1) parking space.

<b>USE</b>	<b>PARKING SPACE PER UNIT OF MEASUREMENT</b>
<b>Residential</b>	
Single-family dwellings	Two (2) for each dwelling unit
Two-family dwellings	Two (2) for each dwelling unit
Multiple-family dwellings	Two (2) for each dwelling unit, plus one (1) additional space for each two (2) units
<b>Institutional</b>	
Group and commercial day care homes and group care facilities	One (1) space for each four (4) clients
Churches, theaters, assembly areas, auditoriums, gymnasiums	One (1) space for each two (2) seats or each four (4) feet of pew length or one (1) space for each two (2) persons allowed within the maximum occupancy load established by any applicable codes or ordinances, whichever is greater.
Schools, elementary and middle	Two (2) spaces for each three (3) employees, plus amount required for auditorium or gymnasium seating.
Schools, secondary, trade, industrial, and institutions of higher learning	One (1) space for each eight (8) students, plus one and one-half (1 ½) spaces for each classroom, plus amount required for auditorium or gymnasium seating.

<b>Commercial</b>	
Vehicle wash establishments (self service or automatic)	One (1) space for each five (5) stalls
Beauty/Barber shop	Three (3) spaces for each chair
Bowling alleys	Four (4) spaces for each bowling lane plus required spaces for each accessory use.
Assembly halls without fixed seats	One (1) space for each three (3) persons allowed within the maximum occupancy load established by any applicable codes or ordinances
Restaurants – without drive-through facilities	One (1) space for each one hundred (100) square feet UFA or one (1) space for each two (2) persons allowed within the maximum occupancy load established by any applicable codes or ordinances, whichever is greater
Vehicle service stations	One (1) space for each service stall, plus one (1) space for each pump island
Personal service establishments not otherwise specified	One (1) space for each fifty (50) square feet UFA
Furniture, appliance and household goods retail sales	One (1) space for each one thousand (1000) square feet UFA
Funeral homes and mortuary establishments	One (1) space for each fifty (50) square feet UFA
Open Air businesses	One (1) space for two hundred (200) square feet of indoor UFA plus one (1) space for each one thousand (1000) square feet of outdoor display area
Retail stores not otherwise specified	One (1) space for each two hundred square feet UFA
Hotels and motels	One (1) space for each guest room, plus required spaces for any accessory uses
Video rental stores	One (1) space for each one hundred (100) square feet UFA
Marinas	1.2 parking spaces per marina slip, including “in/out” stackable slips.

<b>Offices</b>	
Banks, credit unions, savings and loan associations and other similar uses	One (1) space for each one hundred and fifty (150) square feet UFA plus three (3) spaces for each non-drive through automatic teller machine
Offices not otherwise specified	One (1) space for each three hundred (300) square feet UFA
Medical and dental offices and clinics	One (1) space for each seventy-five (75) square feet of waiting room area plus one (1) space for each examining room, dental chair, or similar use area

<b>Industrial</b>	
Manufacturing, processing, and research establishments and Industrial uses not otherwise specified	One (1) space for each one thousand (1000) square feet GFA plus those spaces required for offices located on the premises
Warehouses and wholesale establishments	One (1) space for each two thousand (2000) square feet GFA plus those spaces required for offices located on the premises.

**SECTION 16.07 OFF-STREET LOADING REQUIREMENTS**

- A. On the same premises with every building or structure involving the receipt or distribution of vehicles, materials or merchandise there shall be provided and maintained on the lot adequate space for standing, loading and unloading. This space shall be placed so as to avoid undue interference with public use of dedicated rights-of-way and parking areas.
- B. In the NC District all loading spaces shall be located in the rear yard in the ratio of at least ten (10) square feet per front foot of building and shall be computed separately from off-street parking requirements.
- C. Loading spaces for non-residential uses in Residential Districts shall be located in the rear yard in the ratio of at least five (5) square feet per front foot of building and shall be computed separately from off-street parking requirements.
- D. LI District
  - 1. In the LI District at least one (1) loading space shall be provided. All loading spaces shall be at least ten (10) feet by fifty (50) feet, or a minimum of five hundred (500) square feet in area. A minimum of fourteen (14) foot clearance height shall be provided.
  - 2. Loading spaces shall only be permitted off-street and in the rear yard or interior side yard.
- E. All dedicated loading spaces shall be provided with pavement having an asphalt or concrete binder so as to provide a permanent, durable and dust-free surface.

## ARTICLE XVII SIGNS

### SECTION 17.01 DESCRIPTION AND PURPOSE

These provisions are intended to regulate the size, number, location and manner of display of signs in Fruitland Township, consistent with the following purposes:

- A. To protect the safety and welfare of Township residents; to conserve and enhance the character of the Township; and to promote the economic viability of commercial and other areas by minimizing visual clutter.
- B. To prevent traffic hazards and pedestrian accidents caused by signs which obstruct vision or are distracting or confusing.
- C. To promote uniformity in size, number, and placement of signs within zoning districts.
- D. To allow the identification of establishments and premises in the Township.

### SECTION 17.02 DEFINITIONS

For the purposes of this Article related to signs, the following words and phrases are defined as follows:

- A. Construction Sign: A temporary sign, which identifies the owners, contractors, architects and/or engineers or other participants of a site under construction.
- B. Commercial Establishment: A business operating independently of any other business located in a freestanding building; or in a group of stores or similar establishments that are located side-by-side in a single building, sometimes called a strip mall, as a business completely separated from other business by walls from the ground up and separate entrances.
- C. Community Special Event Sign: A temporary sign for the purpose of calling attention to special events of interest to the general public and which are sponsored by governmental agencies, schools, or other non-profit groups whose purpose is of a public, charitable, philanthropic, religious or benevolent nature. Community Special Event Signs shall be removed within five (5) days after the event.
- D. Directional Sign: A sign which gives directions, instruction or information relating to location of buildings, designated routes for pedestrians and vehicles and other information for convenience or safety, such as parking information signs or entrance and exit signs.
- E. Election Campaign Sign: A temporary sign erected for a limited period of time for purposes of political campaigns for public office, for elections on public questions or otherwise relating to public elections or public meetings held for the purpose of voting on or for public offices or public questions.
- F. Freestanding Sign: A sign not attached to a building or wall and which is supported by one or more poles or braces which rests on the ground or on a foundation that rests on the ground.
- G. Governmental Sign: A sign erected or required to be erected by the Township, the County of Muskegon, by the state of Michigan or the Federal government.
- H. Incidental Sign: A sign that identifies street addresses, entrances and exits, safety precautions, identifying logos without text and other such incidental information, and which sets forth no other advertisement, including trespass signs.



- I. Memorial Sign: A sign, tablet or plaque memorializing a person, event, structure or site.
- J. On-Site Sign: A sign pertaining to activities conducted or maintained on the property on which it is located.
- K. Off-Site Sign: A sign not pertaining to activities conducted or maintained on the property on which it is located.
- L. Outdoor Advertising Sign: A sign within 660 feet of an Interstate highway, Freeway, or Primary highway, or visible from the main traveled way, that is fixed to or erected upon a free-standing framework, designed or intended to be used for posting information not pertaining directly or indirectly to the use of the premises on which it is located.
- M. Portable Sign: A free-standing sign not permanently anchored or secured to either a building or the ground, but usually anchored or secured to a trailer or frame capable of being moved from place to place.
- N. Project Development Sign: A temporary sign advertising a project, which may include a drawing, the project name, owners, contractors, architects and/or engineers or other participants of a development project which has been approved.
- O. Projecting Sign: A sign which projects from and is supported by a wall of a building at any angle to the wall to which it is attached and does not extend beyond, into or over the street right-of-way.
- P. Real Estate Sign: A temporary sign advertising the real estate upon which the sign is located as being available for sale, rent or lease.
- Q. Residential Identification Sign: A permanent sign identifying or otherwise stating the name of a platted subdivision, site condominium development, manufactured home park, multiple-family development or other similar residential development.
- R. Sign: A device, structure, fixture or placard using graphics, symbols and/or written copy designed specifically for the purpose of advertising or identifying an establishment, product, service, commodity or activity, or displaying or depicting other information.
- S. Temporary Sign: A sign erected for a specified period of time with the intent of being discontinued at the end of the designated time period.
- T. Wall Sign: A sign painted or attached directly to and parallel to the exterior wall of a building, extending not greater than twelve (12) inches from the exterior face of the wall to which it is extended.
- U. Residential Garage/Yard/Estate Sale Sign: A temporary sign that identifies the location and/or occurrence of a Residential Garage/Yard/Estate sale.
- V. Illuminated Sign: A sign which has characters, letters, figures, designs or outline illuminated by electric lights or luminous tubes as a part of the sign proper.
- W. Electronic Message Center (EMC) and Digital Signs: Any sign that displays its message via a lighted digital face with the capability to change the sign's message by computer, including any signs that display animated messages or characters, letters, figures, designs or images.

### **SECTION 17.03 SIGNS PROHIBITED**

The following types of signs are expressly prohibited:

- A. No person shall post any sign other than a Government Sign on any street, park, lot or other property owned by the Township of Fruitland. No person, except a public officer or employee in the performance of a public duty, shall paint, post, paste, print, nail, stamp, tack or otherwise fasten any card, banner, handbill, sign, sticker, poster or advertisement, notice or advertising device of any kind calculated to attract the attention of the public or

cause the same to be done on any curbstone, curb, lamppost, pole, hydrant, bridge, wall or tree, or upon any fixture or fire alarm, police or telephone system of the Township, or upon any public sidewalk, street, alley or other public place except as may be required by ordinance or law, or construct or maintain any sign or sign device upon any sidewalk, street, alley or other public place.

- B. Any sign or sign structure which is structurally unsafe; or constitutes a hazard to safety or health by reason of inadequate maintenance, dilapidation, or abandonment; or is not kept in good repair; or is capable of causing electrical shocks to persons likely to come in contact with it.
- C. Any sign which, by reason of its size, location, content, coloring, or manner of illumination, constitutes a traffic hazard or a detriment to traffic safety by obstructing the vision of drivers or by obstructing or detracting from the visibility of any traffic sign or control device on public streets or roads.
- D. Any sign which obstructs free ingress to or egress from a required door, window, fire escape, or other required exit way.
- E. Signs which make use of words such as "STOP," "LOOK," "DANGER," or any other words, phrases, symbols, or characters, in such a manner as to interfere with, mislead, or confuse traffic.
- F. Any sign or other advertising structure containing any obscene matter.
- G. Any sign unlawfully installed, erected, or maintained.
- H. Any other signs not expressly permitted by this Ordinance.

#### **SECTION 17.04 SIGNS EXEMPTED FROM PERMIT**

The following signs, whether located on-site or off-site, shall be exempt from requiring a sign permit:

- A. Governmental or Public Utility signs, banners and flags.
- B. Flags and banners not exceeding 25 square feet attached to the principal structure or a flag pole.
- C. Historical markers.
- D. Memorial signs or tablets not exceeding one (1) per parcel and six square feet.
- E. Election campaign signs as set forth in this Article.
- F. Signs with an address and/or name of the owner or occupant as follows:
  - 1. not more than two (2) square feet in area, attached to a mailbox, light fixture or exterior wall;
  - 2. not more than two (2) square feet, if freestanding.
- G. Incidental signs not exceeding one (1) square foot.
- H. Residential Garage/Yard/Estate Sale signs of not more than four (4) square feet in size.
- I. On-Site Real Estate signs not exceeding six (6) square feet.
- J. Off-site Real Estate signs not exceeding two (2) square feet.
- K. Community Special Events signs not exceeding four (4) square feet.
- L. Two (2) directional signs are allowed on the property where a business is located, each not to exceed two (2) square feet.

**SECTION 17.05 MEASUREMENT OF SIGNS**

- A. The area of a sign shall be measured as the area within a single, continuous perimeter composed of any straight line geometric figure which encloses the extreme limits of writing, representation, emblem, logo and any other figure of similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed, excluding only the structure necessary to support the sign.
- B. The area of a free-standing or ground sign that has two (2) or more faces shall be measured by including the area of all sign faces, except that if two (2) faces are placed back to back and are of equal size, the area of the two (2) back to back faces shall be counted as one (1) face. If the two back to back faces are of unequal size, the larger of the two sign faces shall be considered the size for both faces.
- C. The height of a sign shall be measured as the vertical distance from the highest point of the sign to the grade of the adjacent street or the average grade of the ground immediately beneath the sign, whichever is less.

**SECTION 17.06 SIGN APPLICATION AND PERMITS**

- A. A sign permit shall be required for the erection, use, construction or alteration of all signs, except for those exempted by the terms of this Article. For purposes of this Section, alteration of a sign shall mean any substantial change therein, but shall not include normal maintenance or repair thereof.
- B. An application for a sign permit shall be made to the Zoning Administrator and shall include submission of such fee as may be required by resolution or other action by the Township Board. The application shall include the following:
  - 1. Name, address and telephone number of the applicant and the person, firm or corporation erecting the sign.
  - 2. Address or permanent parcel number of the property where the sign will be located.
  - 3. A sketch showing the location of the building, structure or parcel of land upon which the sign is to be attached or erected and showing the proposed sign in relation to buildings and structures, together with the depth of the parcel and setback from lot lines.
  - 4. Two (2) scaled blueprints or drawings of the plans and specifications for the sign and information on the method of construction and attachment to structures or the ground.
  - 5. Electrical specifications and diagrams as applicable.
  - 6. Identification of the zoning district in which the sign is to be located, together with any other information which the Zoning Administrator may require in order to determine compliance with this Article.
- C. All signs requiring electrical service shall be reviewed for compliance with the current Township electrical code.
- D. The Zoning Administrator shall issue a sign permit if all provisions of this Article and other provisions of this Ordinance and other applicable Township ordinances are satisfied. A sign authorized by such a permit shall be installed or shall be under

construction within six (6) months of the date of issuance of the sign permit or the permit shall expire. A new permit may be issued upon the filing of a new application and payment of required fee.

**SECTION 17.07 SIGN REGULATIONS APPLICABLE TO ALL DISTRICTS**

- A. It shall be unlawful for any person to erect, place, maintain or continue a sign upon any lands in the Township except in accordance with the provisions of this Ordinance.
- B. All signs shall be stationary and shall pertain only to the business or activity conducted on the premises, except for real estate signs, residential garage/yard/estate sale signs, political signs and community special event signs.
- C. Election campaign signs shall be permitted in addition to otherwise permitted signs and sign areas and only in accordance with the following regulations and other applicable regulations or this ordinance:
  - 1. Election campaign signs shall not be placed on any public property, utility pole, bridge or bridge abutment.
  - 2. The maximum size of any election campaign sign shall be eight (8) square feet if located in a Residential District and 64 square feet if located in a nonresidential district. In no case shall the total area of all freestanding election campaign signs on a lot exceed 64 square feet, except for a lot on which billboards are permitted. In such a case, election campaign signs may be displayed in accordance with the regulations for Outdoor Advertising Signs in this section.
  - 3. In addition to the specifically authorized election campaign signs, political messages may be displayed in place of commercial messages on any permitted Outdoor Advertising Sign or other permitted permanent sign.
  - 4. Election campaign signs other than those permitted as an Outdoor Advertising Sign or other permitted permanent sign shall be removed pursuant to Section 17.08.
  - 5. In a campaign for political office, the candidate for such office shall be deemed the person responsible for the posting of election campaign signs, unless he/she notifies the Township Clerk and the Zoning Administrator who is responsible. In such case, the candidate shall provide the name, address, telephone number, and signed consent of such other responsible person. In a campaign regarding a ballot measure, the treasurer of the committee supporting or opposing such ballot measure shall be deemed responsible, unless he/she first notifies the Township Clerk and The Zoning Administrator of some other person responsible, in the manner described above. The candidate, or in the case of a ballot measure, the committee treasurer, or other responsible person if so designated, shall be liable to pay any fees or costs for the removal and storage of illegal signs, as set out herein. Further, such candidate, committee treasurer, or other designated person, shall be subject to municipal civil infraction liability for any violation of this ordinance. Nothing in this section shall be interpreted to make any person liable, for any sign posted by persons unknown to him or her, or by persons over whom he or she has no control.

- D. No sign shall be placed in, or extend into, any public street right-of-way. However, where prohibited by vegetation and trees, subject to Muskegon County Road Commission approval the following signs (as may be further regulated by this article) may be placed at a clear and safe distance, but not closer than ten (10) feet from the edge of pavement or driving surface of the street except signs with an address and/or name of the owner or occupant not more than two (2) square feet in area, attached to a mailbox and/ or address number signs:
1. Governmental or Public Utility signs.
  2. Election campaign signs.
  3. Incidental signs.
  4. Residential Garage/Yard/Estate Sale signs.
  5. On-site Real Estate signs.
  6. Off-site Real Estate signs.
  7. Community special event signs.
- E. Construction signs are permitted, subject to the following restrictions:
1. Total area of construction signs shall not exceed sixteen (16) square feet and shall not exceed eight (8) feet in height.
  2. Construction signs shall not be erected until a permit if required has been issued.
  3. Construction signs shall be removed immediately upon issuance of an occupancy permit.
- F. Project Development Signs are permitted, subject to the following restrictions:
1. Total area of development project signs shall not exceed thirty-two (32) square feet and shall not exceed eight (8) feet in height. The sign shall be placed no closer than fifteen (15) feet from public right-of-way.
  2. Project development sign shall not be erected until all zoning for the project or current phase of the project has been approved.
  3. When the project involves a residential development, the sign(s) shall be removed immediately upon the sale of sixty (60%) percent of the lots available.
- G. Outdoor advertising signs shall be allowed in accordance with the following:
1. Shall be located in business areas as defined in Act 106 of 1972.
  2. Shall be located within 660 feet of an Interstate highway, Freeway, or Primary highway as stipulated in Act 106 of 1972.
  3. Shall be at least 25 feet from the road right-of-way.
  4. Shall have a maximum height of 30 feet.
  5. Shall not be situated within 1,000 feet of an intersection.
  6. Shall not be located on the same parcel as another sign.
  7. Shall not exceed 300 square feet in area.
  8. Parcels containing outdoor advertising signs must be at least one acre in size.
  9. Outdoor advertising signs shall meet all other provisions of Act 106 of 1972.
- H. No wall sign shall project above the building roof line.

- I. Sign lighting shall be shielded from vehicular traffic and adjacent residential properties so as not to become a nuisance, and shall be installed to allow for the reduction of the amount of illumination after normal business hours.
- J. Two off-site signs not to exceed eight (8) square feet are allowed with the written permission of the property owner for any business located within the township.
- K. Portable Signs:

Portable signs shall only be permitted in accordance with the following criteria:

- 1. For grand openings, charitable or community related events and the like, but only for a period not to exceed ninety (90) days in any calendar year.
- 2. Be located no closer to the street right-of-way than fifteen (15) feet.
- 3. Shall not exceed sixty-four (64) square feet of total surface display area.
- 4. Exceptions to these criteria may be granted by variance.

### **SECTION 17.08 REMOVAL OF SIGNS**

It is the duty of the person or group posting a temporary sign to remove the same on or before the time specified herein for removal. Each temporary sign displayed at any out of doors location on any property not owned by Fruitland Township shall be removed within 5 days after the event, sale or other matter to which the sign refers. Signs posted on Township owned property shall be removed within 24 hours of notification by Fruitland Township. Any sign posted upon Fruitland Township property that is not removed by the person or group who posted the sign as required herein shall be removed by the Township and all costs incurred shall be the responsibility of the person or group posting such sign. Any temporary sign posted on property not owned by Fruitland Township shall be removed within 72 hours of notification by Fruitland Township. Any temporary sign posted on property not owned by Fruitland Township that is not removed by the person or group who posted the sign as required herein shall be removed by the Township and all costs incurred shall be the responsibility of the person or group posting such sign.

### **SECTION 17.09 NON-CONFORMING SIGNS**

- A. Signs lawfully erected prior to the adoption of this Ordinance or any amendment thereto which do not meet the standards of this Article may be continued, except as hereinafter provided. Non-conforming signs shall not:
  - 1. have any changes made in the words or symbols used or the message displayed on the sign, unless the sign is specifically designed for periodic change of message;
  - 2. be structurally altered so as to change the shape, size, type or design of the sign; or
  - 3. be reestablished or continued after the activity, business or use to which it applied has been discontinued for ninety (90) days or longer. At the end of this period of abandonment, the sign shall either be removed or altered to conform with the provisions of this section. All costs of removal shall be at the property owner's expense.

- B. Signs lawfully erected prior to the adoption of this Ordinance and any amendment thereto shall be made to conform with the provisions of this Ordinance or removed at the owner's expense within five (5) years after notified in writing by the Township of any non-conformity. If the owner fails to do so, the Township shall cause such signs to be removed and shall assess the cost of removal to the owner of the property in which the sign is located.
- C. The Township may acquire any non-conforming sign, with or without acquiring the property on which such sign is located, by condemnation or other means, and may then remove such sign.

**SECTION 17.10 SIGNS IN RESIDENTIAL DISTRICTS**

In addition to signs permitted and as regulated in all districts, the following signs are permitted in Residential Districts:

- A. One (1) non-illuminated Residential Identification Sign per entrance road for each such development shall be permitted, except that no two (2) such signs per development shall be located closer to each other than three hundred thirty (330) feet. The Residential Identification Sign shall not exceed sixteen (16) square feet in area and shall not be higher than four (4) feet.
- B. For permitted nonresidential principal uses, one freestanding sign not to exceed sixteen (16) square feet in sign area and placed a minimum of fifteen (15) feet from each side lot line. Such sign shall not be illuminated and shall not be higher than three (3) feet.
- C. Not more than one (1) sign per property advertising the sale of produce grown on the premises, not to exceed (16) square feet and a height not exceeding four (4) feet.
- D. Wall signs attached to the principal structure for home occupation shall not exceed two (2) square feet. One such sign is allowed per residential parcel.

**SECTION 17.11 SIGNS IN COMMERCIAL DISTRICTS**

In addition to signs permitted and as regulated in all districts, the following signs are permitted in the Neighborhood Commercial, Amusement Park and Waterfront Marine Districts:

- A. Freestanding Signs:
  - 1. One (1) Freestanding Sign shall be permitted for each lot or parcel of land.
  - 2. The total area of such sign shall not exceed one hundred twenty-eight (128) square feet.
  - 3. Any part of a Freestanding Sign shall be set back at least ten (10) feet from any property line.
  - 4. Freestanding Signs shall not exceed twenty (20) feet in height and comply with the requirements of this Article.
- B. Projecting Signs:
  - 1. One (1) Projecting Sign may be permitted per building when no other wall sign exists on the wall from which the projecting sign is to be hung.
  - 2. Projecting Signs shall not exceed one and one-half (1 ½) square feet of sign area for each lineal foot of building frontage to which the sign is to be attached up to a maximum of fifty (50) square feet.

C. Wall Signs:

1. Each establishment shall be permitted to have one (1) wall sign. For each establishment on a corner lot, one (1) wall sign per public or private street frontage is permitted.
  - a. Establishments located in a freestanding building with one hundred (100) feet or less of freestanding building frontage shall be permitted a wall sign not to exceed one (1) square foot of sign for each lineal foot of street frontage of such freestanding building.
  - b. Establishments with more than one hundred (100) feet of freestanding building frontage shall be permitted a wall sign area not to exceed one (1) square foot of sign area for each of the first one hundred (100) lineal feet of freestanding building frontage and one and one-half (1 ½) square feet of sign area for each three (3) lineal feet in excess of one hundred (100) lineal feet.
  - c. Wall sign area for an establishment consisting of a separate business located in a building with other businesses but with a separate and independent entrance shall be calculated in the same manner as in a freestanding building, using the building frontage of such establishment.
2. The wall sign shall be attached to the same wall which is used to determine its size.

D. Electronic Message Center (EMC) and Digital Signs:

1. Shall not exceed more than 1 change per six seconds, each change is complete in 1 second or less.
2. Shall possess and utilize automatic dimming capabilities so that the maximum luminescence level is not more than 0.3 foot candles over ambient light levels measured at a distance of 150 feet for those sign faces less than or equal to 300 square feet, measured at a distance of 200 feet for those sign faces greater than 300 square feet but less than or equal to 378 square feet, measured at a distance of 250 feet for those sign faces greater than 378 square feet and less than 672 square feet, and measured at a distance of 350 feet for those sign faces equal to or greater than 672 square feet.

E. Illuminated Signs:

1. Message shall be stationary.
2. May be illuminated so as to allow the sign to be seen and read but the illumination shall be employed in a manner that prevents beams or rays of light from being directed at any portion of the main-traveled street and neighboring properties.



## **ARTICLE XVIII**

### **PRIVATE STREETS SERVING TWO (2) TO THIRTY (30) LOTS**

#### **SECTION 18.01 SCOPE**

The township has determined that as large tracts of land are divided, sold, transferred and developed, private access streets are being created to provide access to the newly divided properties. The Township determines that it is in the best interest of the public health, safety and welfare to regulate the construction, improvement, extension, relocation and use of private streets to assure that:

- A. Private streets are designed with width, surface, and grade to assure safe passage and maneuverability of private vehicles, police, fire, ambulance and other safety vehicles.
- B. Private streets shall be constructed and maintained such that in all weather conditions the private street shall be passable and shall readily afford emergency access to the dwellings, buildings or other structures serviced by the private street.
- C. Said streets are constructed of suitable materials to ensure minimal maintenance and safe passage.
- D. Private streets will be constructed to protect against or minimize soil erosion and prevent damage to lakes, streams, wetlands, and other significant natural features of the Township.
- E. A private street, or any combination of interconnected private streets, shall not provide access to more than 30 lots. Streets providing access to more than 30 lots must be dedicated for public use.
- F. Previously approved private streets, that are not adding additional lots and/or are not being extended, are not required to meet the current private street standards. Existence of an easement alone does not constitute a previously approved private street.

#### **SECTION 18.02 APPLICATION**

- A. An applicant wishing to construct a private street must make application to the Township for a private street construction permit. This application shall include three (3) complete sets of construction plans.
- B. No individual, association, corporation or entity, either public or private, shall construct a private street without first having obtained a private street construction permit from the Township.

- C. An application for a private street construction permit shall contain the following:
1. Completed private street construction permit application form, provided by the Township, and an application fee established by the Township Board.
  2. A detailed written description of the development to be served by the private street, including a description of the association or other party to be responsible for the operation and maintenance of the private street.
  3. Three (3) copies of construction plans prepared in accordance with the Fruitland Township Design and Construction Standards.
  4. A survey of the right-of-way by a registered land surveyor, together with surveys for each parcel to be served by the private street.
  5. The location of all public utilities, including, but not limited to, water, sewer, telephone, gas, electricity, and television cable to be located within the private street right-of-way; copies of the instruments describing and granting such easements shall be submitted with the application.
  6. The location of any lakes, streams, wetlands and drains within the proposed right-of-way or within one hundred (100) feet thereof.
  7. The location of any other buildings and structures located within one hundred (100) feet of the private street right-of-way.
  8. The applicant of the proposed private street shall provide a copy of a private street maintenance agreement that is satisfactory to the township executed by all parties having a right to use the private street and recorded with the Muskegon County Register of Deeds which shall provide for and assure that the private street shall be regularly maintained, repaired and snow plowed so as to assure that the private street is safe for travel at all times and the cost thereof paid. The township will provide a sample Private Street Maintenance Agreement. Substitutions for the sample agreement must be reviewed and accepted by the township attorney.
  9. Private streets shall meet the requirement of this ordinance and be designed and constructed according to the requirements and specifications of the Fruitland Township Design and Construction Standards.
  10. Review comments from the Muskegon County Drain Commissioner, Muskegon County Road Commission, White Lake Fire Authority, Muskegon Conservation District and Muskegon County Department of Public Works.

11. Soil Erosion and Sedimentation Permit.
  12. A narrative (shown on the site plan or submitted separately) describing in general terms the overall description of the proposal and the proposed method of providing sanitary sewer, water service, storm sewers and surface water drainage facilities, as well as other public and private utilities, including details of structures, light fixtures, etc.
- D. The Township shall require, as a condition of the private street construction permit, that the applicant provides a financial guarantee of performance in accordance with this ordinance.
  - E. The financial guarantee will not be released until the restoration is complete to the extent that vegetation no longer requires temporary soil control measures and the project is deemed acceptable and approved for use by the township, and will be contingent upon the final release of the Soil Erosion and Sedimentation Control Permit issued by the County.
  - F. Construction of the private street is to be completed within one (1) year of issuance of the permit. If construction is not completed within such period, the permit shall expire and if the applicant later decides to proceed, the applicant shall reapply as provided in this Section. If construction has commenced but not been completed within one (1) year, the township may exercise the financial guarantee to complete the street. The period within which construction must be completed is subject to extension by the Township Zoning Administrator for good cause shown and, as a condition of extension, the Township may increase the amount of performance guarantee required.

#### **SECTION 18.03 PUBLIC HEARING REQUIRED**

Following the submittal of a completed application for a private street construction permit, the planning commission shall advertise and hold a public hearing. If the private street is included in a site plan the public hearing will be held in conjunction with the public hearing for the site plan. Notice of the hearing shall be provided to all taxpayers of record within 300 feet of the private street and one notice shall be published in the newspaper of local circulation in accordance with the Zoning Act.

#### **SECTION 18.04 PLANNING COMMISSION APPROVAL**

- A. Prior to approving a private street application, the Township shall determine that the proposed private street:
  1. Will not be detrimental to the public health, safety or general welfare.
  2. Will not adversely affect the use of land.
  3. Will be constructed to assure a safe and unimpeded route of travel for motor vehicles, pedestrians and emergency vehicles in all weather conditions.

4. Will be constructed so as to protect against or minimize soil erosion and prevent damage to lakes, streams, wetlands and the natural environment of the Township.
- B. The Planning Commission shall act on the private street construction application within 30 days of the hearing.

**SECTION 18.05 EXTENSION OF EXISTING PRIVATE STREETS**

Prior to the extension of a private street, the Zoning Administrator shall review an application submitted in accordance with the requirements of this Article. Extension of private streets shall be subject to the following requirements:

- A. If the extension of the existing street increases the number of dwelling units served, such that an increase in the design standard is required, the entire street shall be brought up to those design and construction standards.
- B. A private street maintenance agreement that is satisfactory to the township must be executed by all parties having a right to use the private street and shall be recorded with the Muskegon County Register of Deeds. Existing private street maintenance agreements or restrictive covenants must be modified to include all new parties proportionately for the entire length of the private street.

**SECTION 18.06 PERMITTING, INSPECTION AND FINAL ACCEPTANCE PROVISIONS**

**A. Periodic Inspection**

1. Private streets shall be inspected for compliance by the township or its designated representative. The applicant, before final approval of the private street, shall pay all inspection costs.
2. From time to time, the township or its designated representative may inspect the construction of the private street to ensure compliance with the approved development site plan and the design and construction standards of the township.
3. If during any inspection, the township or its designated representative determines that the work is not acceptable according to the approved site plan and the design and construction standards of the township, the applicant will be advised in writing of specific defects to be remedied before final acceptance. The applicant shall have 30 days to file an appeal to the township's notification.

**B. Request for Inspections**

1. It shall be the applicant's responsibility to notify the township at certain critical points to give the township adequate time to inspect the quality of work and compliance with approved plans and township design

standards. The following work items require that the applicant notify the township during placement and construction of:

- a. Storm sewer systems and structures, including under-drains if required
  - b. Sand sub-base
  - c. Aggregate base
  - d. Bituminous surface
  - e. Restoration of vegetation
2. Upon request for a final inspection, the applicant shall provide the township with copies of the contractor's construction documentation records, including the following, as applicable:
- a. Aggregate/Bituminous Material Specification documentation from supplier, including point of origin
  - b. Delivery tickets for all bulk materials, including amount and tonnage for individual loads and the net for the project
  - c. Moisture Density Records
  - d. Bituminous Density Records and mix type
  - e. Concrete Field Tests or Cylinder Strength Records and mix type
  - f. Grade Checking documentation
  - g. Contractor Corrective Action Reports
  - h. Inspection Reports with depth checks, etc.

**C. Field Inspection**

1. After review of all data, documentation and licensed professional engineer's certification, the township or its designated representative will make a final inspection.
2. If during any inspection, the township or its designated representative determines that the work is not acceptable according to the approved site plan and the design and construction standards of the township, the applicant will be advised in writing of specific defects to be remedied before final acceptance. The applicant shall have 30 days to file an appeal to the township's notification.

**D. Final Approval**

1. The construction of the private street must conform to the requirements of this Article. It will be necessary for the applicant to provide a certification from a licensed professional engineer that the private street complies with the Fruitland Township Design and Construction Standards. Verification of such conformance will be provided by the applicant's licensed professional engineer by submission of a set of as-built drawings and a statement certifying that the private street has been constructed in accordance with the requirements of the permit. As-built drawings will include computer diskette if the project was so designed.

2. The Zoning Administrator shall not issue zoning permits for any building on lots served by a private street until construction of the private street has been inspected and approved and following submittal of a Completion Certificate signed by the township engineer indicating that the street has been completed in accordance with the requirements of this Article.
3. Upon final acceptance, the township shall notify the applicant in writing of such approval.

**SECTION 18.07 MISCELLANEOUS**

- A. The Township Board shall set fees for the permits and all escrows required herein from time to time, by resolution.
- B. By making application for, or securing a permit to construct a private street, the applicant agrees to indemnify and hold the Township harmless from any and all claims for personal injury and/or property damage arising out of the use of the private street or for failure to properly construct, maintain, use, repair and replace the private street.
- C. Zoning and Building permits, for up to 10 percent of the development or at least one permit in all cases, may be issued prior to the completion of the private street, at the discretion of the planning commission for good cause shown, (such as weather, or other unforeseen circumstances), after approval of the private street construction permit, provided a financial guarantee of performance assuring the completion of the private street has been submitted in accordance with the requirements of this Ordinance.

# **ARTICLE XVIIIa**

## **PRIVATE STREETS SERVING ONE LOT**

### **SECTION 18.01a SCOPE**

The township has determined that as large tracts of land are divided, sold, transferred and developed, private access streets are being created to provide access to the newly divided properties. The Township determines that it is in the best interest of the public health, safety and welfare to regulate the construction, improvement, extension, relocation and use of private streets to assure that:

- A. Private streets are designed with width, surface, and grade to assure safe passage and maneuverability of private vehicles, police, fire, ambulance and other safety vehicles.
- B. Private streets shall be constructed and maintained such that in all weather conditions the private street shall be passable and shall readily afford emergency access to the dwellings, buildings or other structures serviced by the private street.
- C. Said streets are constructed of suitable materials to ensure minimal maintenance and safe passage.
- D. Private streets will be constructed to protect against or minimize soil erosion and prevent damage to lakes, streams, wetlands, and other significant natural features of the Township.
- E. Private streets serving only one lot are similar to a driveway, and shall therefore be constructed to township driveway standards and shall be exempt from the corner lot setbacks. Such private streets shall have a 45 foot wide right-of-way, and shall be maintained by the owner of the lot served by the private street. No additional lots shall use this private street for future access. Such private streets must be approved and constructed prior to the granting of a land division.
- F. Private streets serving one lot must have a setback of at least ten (10) feet from any adjacent lot to the edge of the private street's surface.
- G. Previously approved private streets, that are not adding additional lots and/or are not being extended, are not required to meet the current private street standards. Existence of an easement alone does not constitute a previously approved private street.

### **SECTION 18.02a APPLICATION**

- A. An applicant wishing to construct a private street serving one lot must make application to the Township for a private street construction permit. This application shall include one (1) complete set of drawings which depict the location of the private street on and/or to the single lot.
- B. No individual, association, corporation or entity, either public or private, shall construct a private street without first having obtained a private street construction permit from the Township.

- C. An application for a private street construction permit serving one lot shall contain the following:
1. Completed private street construction permit application form, provided by the Township, and an application fee established by the Township Board.
  2. A survey of the right-of-way by a registered land surveyor, together with a survey for the parcel to be served by the private street.
  3. The location of any lakes, streams, wetlands and drains within the proposed right-of-way or within one hundred (100) feet thereof.
  4. The location of any other buildings and structures located within fifty (50) feet of the private street right-of-way.
  5. Private streets shall meet the requirement of this ordinance and be designed and constructed according to the requirements and specifications of the Fruitland Township Driveway Standards found in Article III General Provisions.
- D. Construction of the private street is to be completed within one (1) year of issuance of the permit. If construction is not completed within such period, the permit shall expire and if the applicant later decides to proceed, the applicant shall reapply as provided in this Section. If construction has commenced but not been completed within one (1) year, the applicant may for good cause, request an extension for a period not to exceed six (6) months from the Township Zoning Administrator. The Zoning Administrator shall levy a financial performance guarantee as a condition of extension.

**SECTION 18.03a ZONING ADMINISTRATOR APPROVAL**

- A. Prior to approving a private street application, the Township Zoning Administrator shall determine that the proposed private street:
1. Will not be detrimental to the public health, safety or general welfare.
  2. Will not adversely affect the use of land.
  3. Will be constructed to assure a safe and unimpeded route of travel for motor vehicles, pedestrians and emergency vehicles in all weather conditions.
  4. Will be constructed so as to protect against or minimize soil erosion and prevent damage to lakes, streams, wetlands and the natural environment of the Township.
  5. The Zoning Administrator or his/her designee shall visit the site to view the area in which the private street will be located. This area must be staked or flagged to designate where the private street will be placed.
  6. At his/her discretion the Zoning Administrator may require the applicant to have a Natural Resource Assessment performed by the Muskegon Conservation District, at applicant's expense.



- B. The Zoning Administrator shall act on the private street construction application within 45 days of receipt of the application.

**SECTION 18.04a PERMITTING, INSPECTION AND FINAL ACCEPTANCE PROVISIONS**

- A. From time to time, the township or its designated representative may inspect the construction of the private street to ensure compliance with the approved development site plan and the design and construction standards of the township.
- B. After the private street construction is completed, the Zoning Administrator (or designee) shall visit the site to ensure compliance with all requirements. No land division or zoning permits for any building on the lot served by this private street shall be issued until construction of the private street has been inspected and approved.
- C. If during any inspection, the township or its designated representative determines that the work is not acceptable according to the approved site plan and the design and construction standards of the township, the applicant will be advised in writing of specific defects to be remedied before final acceptance. The applicant shall have 30 days to file an appeal to the township's notification.
- D. Upon final acceptance, the township shall notify the applicant in writing of such approval.

**SECTION 18.05a MISCELLANEOUS**

- A. The Township Board shall set fees for the permits and all escrows required herein from time to time, by resolution.
- B. By making application for, or securing a permit to construct a private street, the applicant agrees to indemnify and hold the Township harmless from any and all claims for personal injury and/or property damage arising out of the use of the private street or for failure to properly construct, maintain, use, repair and replace the private street.

# **ARTICLE XIX**

## **BOARD OF ZONING APPEALS**

### **SECTION 19.01 AUTHORIZATION**

In order that the objectives of the Ordinance may be more fully and equitably achieved, that there shall be provided a means of competent interpretation of this Ordinance, that adequate but controlled flexibility be provided in the application of this Ordinance, that the health, safety, and welfare of the public be secured and that justice be done, there is hereby established a Township Board of Zoning Appeals. The Board of Zoning Appeals was established pursuant to the Zoning Act. Any conflict between this Article and state law shall be resolved in favor of the applicable state law.

### **SECTION 19.02 MEMBERSHIP – TERMS OF OFFICE**

- A. The Township Board of Zoning Appeals shall consist of five (5) members. The first member of such Board of Zoning Appeals shall be a member of the Township Planning Commission; the second member may be a member of the Township Board; the additional members shall be selected from the electors residing in the Township, provided that an employee or contractor of the legislative body may not serve as a member of the Zoning Board of Appeals. A member of the legislative body may serve as an alternate member of the Zoning Board of Appeals. A member of the legislative body who is a member of the Zoning Board of Appeals shall not serve as chairperson of the Zoning Board of Appeals. All members shall be appointed by the Township Board. The terms of office for members appointed to the zoning board of appeals shall be for 3 years, except for members serving because of their membership on the planning commission or legislative body, whose terms shall be limited to the time they are members of those bodies. When members are first appointed, the appointments may be for less than 3 years to provide for staggered terms. A successor shall be appointed not more than one month after the terms of the preceding members has expired. Vacancies for unexpired terms shall be filled for the remainder of the term.
- B. The Township Board may appoint up to two (2) alternate members for the same terms as the regular members. 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 (1) or more meetings. An alternate member may also be called to serve as a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member shall serve in the case until a final decision is made. The alternate member shall have the same voting rights as a regular member.
- C. A member of the zoning board of appeals may be paid a reasonable per diem and reimbursed for expenses actually incurred in the discharge of his or her duties.

### **SECTION 19.03 DUTIES AND POWERS**

The Fruitland Township Board of Zoning Appeals shall have the following specified duties and powers:

- A. Appeals. The Board of Zoning Appeals shall hear and decide appeals from and review any order, requirement, decision, or determination made by the Zoning Administrator or other administrative officer or body of the Fruitland Township in the administration of

this Ordinance, including the interpretation of the zoning maps and may adopt rules to govern its procedures sitting as a Board of Zoning Appeals.

- B. Interpretation. The Board of Zoning Appeals shall have the power to:
1. Hear and decide on matters referred to the Board of Zoning Appeals or upon which the Board of Zoning Appeals is required to pass under a zoning ordinance adopted under this act.
  2. Determine the precise location of boundary lines between zoning districts upon appeal from a decision by the Zoning Administrator upon said subject.
    - a. Where disputes arise as to the location of the flood hazard area boundary or the limits of flood risk zones A1-A30, the Zoning Board of Appeals shall resolve the dispute and establish the boundary location. In all cases, the decision of the Zoning Board of Appeals shall be based upon the most current floodplain studies issued by the Federal Insurance Administration. Where Federal Insurance Administration information is not available, the best available floodplain information shall be utilized.
    - b. Where a dispute involves an allegation that the boundary is incorrect as mapped and Federal Insurance Administration floodplain studies are being questioned, the Zoning Board of Appeals shall modify the boundary of the flood hazard area or the zones defining the floodway only upon receipt of an official letter of map amendment issued by the Federal Insurance Administration. All parties to a map dispute may submit technical evidence to the Zoning Board of Appeals.
  3. 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 a zoning ordinance adopted under this act.
  4. For special land use decisions and decisions regarding Planned Unit Developments, an appeal shall not be taken to the Board of Zoning Appeals.
- C. Variances. The Board of Zoning Appeals shall have the power to authorize specific variances from the requirements of this Ordinance. The Zoning Board of Appeals shall have no authority to grant a use variance for a use not otherwise permitted in a zoning district.
- D. A member of the Board of Zoning Appeals may be removed by the legislative body for misfeasance, malfeasance or nonfeasance in office upon written charges and after a public hearing. A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest constitutes malfeasance in office. A member of the Zoning Board of Appeals who is also a member of the Planning Commission or the Fruitland Township Board shall not participate in a public hearing on or vote on the same matter that the member voted on as a member of the Planning Commission or the Fruitland Township Board. The member may consider and vote on the other unrelated matters involving the same property.

- E. A Board of Zoning Appeals shall not conduct business unless a majority of the regular members of the Board of Zoning Appeals are present.

#### **SECTION 19.04 MEETINGS**

Meetings shall be open to the public, and shall be held at the call of the Chairperson and at such other times as the Board of Zoning Appeals shall specify in its rules of procedure. Minutes shall be taken at all meetings and filed with the Township Clerk.

#### **SECTION 19.05 APPLICATIONS AND HEARINGS**

- A. An application to the Board of Zoning Appeals shall consist of a completed application form, provided by the Township, a fee established by the Township Board, which shall be paid to the Township Clerk at the time of filing, and a scaled drawing with sufficient detail to indicate the nature and necessity of the request. The Board of Zoning Appeals may request additional detail on the drawing or other information which they deem necessary to make a decision on the application. Applications must be filed at least thirty (30) days before a meeting in order to be placed on the meeting agenda.
- B. Upon receipt of a completed application, the Secretary shall cause notices stating the time, place and subject of the hearing to be served personally or by mail addressed to the parties submitting the application, and those persons residing within three hundred (300) feet of the property which is the subject of the application. All notices shall be sent to the addresses listed in the last assessment roll. Such notices shall be sent in accordance with the Zoning Act and Article XXI of this ordinance. The Board may recess such hearings from time to time, and, if the time and place of the continued hearing is publicly announced at the time of adjournment, no further notice shall be required.
- C. At the hearing, a party may appear in person or by agent.

#### **SECTION 19.06 DECISIONS**

- A. The concurring vote of a majority of the membership of the Board of Zoning Appeals shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator; to decide in favor of any application on any matter upon which the Board is required to pass under this Ordinance; to affect any variance in this Ordinance.
- B. The Board of Zoning Appeals shall return a decision upon each case within a reasonable time after the scheduled hearing has been held, unless an extension of time is agreed upon with the applicant and the Board. The Board may specify such conditions, in writing, that in its judgement are necessary to obtain the objectives intended by the Ordinance requirements for which the variance is granted and otherwise address matters relating to the health, safety, and welfare of neighbors. The breach of such conditions shall automatically void the variance granted.
- C. Any decision of the Board shall not become final until the expiration of two (2) days from the date of the decision order, unless the Board shall find the immediate effect of such order is necessary for the preservation of property or personal rights and shall so certify on the record.
- D. The decision of the Board of Zoning Appeals shall be final; however, any person having an interest affected by any such decision shall have the right to appeal to the Circuit Court on questions of law and fact. Such appeal shall be filed within 30 days after the

Zoning Board of Appeals certifies its decision in writing signed by the chairperson, or 21 days after the Zoning Board of Appeals approves the minutes of the decision. The records of the Zoning Board of Appeals shall be made available for the court's review.

- E. Any party aggrieved by a decision of the zoning board of appeals may appeal to the circuit court for the county in which the property is located. The circuit court shall review the record and decision to ensure that the decision meets all of the following requirements:
- a. complies with the constitution and laws of the state;
  - b. is based upon proper procedure;
  - c. is supported by competent, material and substantial evidence on record;
  - d. represents the reasonable exercise of discretion granted by law to the zoning board of appeals.

If the court finds that record inadequate to make the review required by this section or finds that additional material evidence exists that with good reason was not presented, the court shall order further proceedings on the conditions that the court considers proper. The zoning board of appeals may modify its findings and decision as a result of the new proceedings or may affirm the original decision. The supplementary record and decision shall be filed with the court. The court may affirm, reverse or modify the decision.

An appeal under this section shall be filed within 30 days after the zoning board of appeals certifies its decision in writing or 21 days after the Zoning Board of Appeals approves the minutes of its decision. The court shall have jurisdiction to make such further orders as justice may require. An appeal may be had from the decision of any circuit court to the court of appeals.

- F. Any party aggrieved by any order, determination or decision of any officer, agency, board, commission, zoning board of appeals or legislative body of any local unit of government made under section 208 may obtain a review in the circuit court for the county in which the property is located. The review shall be in accordance with Paragraph E.
- G. The zoning board of appeals 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.
- H. Each decision entered under the provisions of this Article shall become null and void unless the construction or other action authorized by such decision has been started within one hundred eighty (180) days after the decision was made and is being carried forward to completion or occupancy of land, premises or buildings.
- I. No application which has been denied wholly or in part by the Board shall be resubmitted for a period of one (1) year from the date of the last denial, except on the grounds of changed conditions that would significantly change the nature of the request or affect the reasons for denial first ordered by the Board.

#### **SECTION 19.07 APPEALS**

- A. Appeals to the Board of Zoning Appeals may be taken by any person aggrieved or by any officer, department or board of the Township, or bureau of the state or local unit of government. In addition, a variance in the zoning ordinance may be applied for and granted under section 4 of the uniform condemnation procedures act, 1980 PA 87, MCL 213.54, and as provided under this act. The zoning board of appeals shall state the

grounds of any determination made by the board. Applications for appeals shall be filed within five (5) days after the date of the decision which is the basis of the appeal. The appellant must file with the Zoning Administrator a notice of appeal specifying the nature and grounds for the appeal. The Zoning Administrator shall transmit to the Board of Zoning Appeals all the papers constituting the record upon which the action appealed from was taken.

- B. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board of Zoning Appeals after the notice of the appeal shall have been filed with him that, for reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Board of Zoning Appeals, or, on application, by the Circuit Court when due cause can be shown.
- C. The Board of Zoning Appeals shall base its decision upon the record submitted to the person or body responsible for making the decision which is being appealed. No additional information or evidence shall be submitted by the appellant which was not otherwise available to the person or body making the decision from which the appeal was taken.
- D. Following the receipt of a written request concerning a request for a variance, the zoning board of appeals shall fix a reasonable time for the hearing of the request and give notice as provided in Section 22.01.
- E. Upon receipt of a written request seeking an interpretation of the zoning ordinance or an appeal of an administrative decision, a notice stating the time, date and place of the public hearing shall be published.
  - 1. The notice for a hearing for a request for an Ordinance interpretation which does not apply to a specific piece of property shall be sent to the person requesting the interpretation.
  - 2. For an Ordinance text amendment or an Ordinance interpretation which applies to a specific property, notice shall be provided as required by the Zoning Act and Section 21.04 B. of this ordinance.

## **SECTION 19.08 REVIEW STANDARDS FOR VARIANCES**

- A. Non-Use Variance: non-use or dimensional variance may be allowed by the Board of Zoning Appeals only in cases where there is reasonable evidence of practical difficulty in the official record of the hearing and that ALL of the following conditions are met:
  - 1. Granting the variance will not be contrary to the public interest and will ensure that the spirit of this Ordinance is observed.
  - 2. Granting the variance will not cause substantial adverse effect to property or improvements in the vicinity or in the district in which the subject property is located.
  - 3. The variance request is not one where the specific conditions pertaining to the property are so general or recurrent in nature as to make the formulation of a general regulation for such conditions reasonably practicable.

4. That there are practical difficulties in the way of carrying out the strict letter of these regulations which are caused by exceptional or extraordinary circumstances or conditions applying to the property involved, or to the intended use of the property or uses in the vicinity in the same zoning district. Exceptional or extraordinary circumstances or conditions include:
    - a. exceptional narrowness, shallowness or shape of a specific property on the effective date of this Article;
    - b. exceptional topographical conditions;
    - c. any other physical situation to the land, building or structure deemed by the Board of Zoning Appeals to be extraordinary; or
    - d. by reason of the use or development of the property immediately adjoining the property in question.
  5. That granting such variance is necessary for the preservation of a substantial property right possessed by other properties in the vicinity in the same zoning district and that the variance is the minimum necessary.
  6. That the variance is not necessitated as a result of any action or inaction of the applicant.
- B. Flood Hazard Area Variances: Variances from the provisions of Article XVIII dealing with flood hazard areas shall only be granted by the Zoning Board of Appeals upon a determination of compliance with the general standards for variances contained in this Ordinance and each of the following specific standards.
1. In addition to the foregoing a variance shall be granted only upon:
    - a. A showing of good and sufficient cause;
    - b. A determination that failure to grant the variance would result in exceptional hardship to the applicant;
    - c. A determination that the granting of a variance will not result in flood heights in excess of that permitted by Section 18.03, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing laws or ordinances; and
    - d. Any variance granted shall be the minimum necessary, considering the flood hazard, to afford relief to the applicant.
  2. The Fruitland Township Zoning Board of Appeals may attach conditions to the granting of a variance flood hazard area to insure compliance with the standards maintained in the Fruitland Township Zoning Ordinance.
  3. For land located in a flood hazard area variances may be granted for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the Michigan Historic Markers listing of historic sites, or any other state register of historic places without regard to the requirements of this Section.

**ARTICLE XX  
ADMINISTRATION AND ENFORCEMENT**

**SECTION 20.01 REPEAL OF PRIOR ORDINANCE**

The Zoning Ordinance previously adopted by the Township on December 15, 1986, and all amendments thereto, are hereby repealed. The repeal of the above Ordinance and its amendments does not affect or impair any act done, offense committed or right accruing, accrued, or acquired, or liability, penalty, forfeiture or punishment incurred prior to the time enforced, prosecuted or inflicted.

**SECTION 20.02 ZONE DISTRICTS**

The Township of Fruitland is hereby divided into the following zoning districts:

- A. RR Rural Residential District
- B. LDR Low Density Residential District
- C. MDR Medium Density Residential District
- D. MHDR Medium High Density Residential District
- E. HDR High Density Residential District
- F. ILD Inland Lakes District
- G. MHP Manufactured Home Park
- H. WM Waterfront Marine District
- I. NC Neighborhood Commercial District
- J. NDLOD North Duck Lake Overlay District
- K. AG Agricultural Overlay District
- L. LMSD Lake Michigan Shoreline District
- M. FPR Forest Preservation and Recreation District

**SECTION 20.03 ZONING MAP**

The location and boundaries of the zoning districts are hereby established as shown on a map, as the same may be amended from time to time, entitled "The Zoning Map of Fruitland Township, Muskegon County, Michigan," which accompanies and is hereby made a part of this Ordinance. Where uncertainty exists as to the boundaries of zoning districts as shown on the zoning map, the following rules of construction and interpretation shall apply:

- A. Boundaries indicated as approximately following centerlines of streets, highways or alleys shall be construed to follow such centerlines.
- B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- C. Boundaries indicated as approximately following township boundaries shall be construed as following township boundaries.



- D. Boundaries indicated as approximately following shorelines or lake or stream beds shall be construed as following such shorelines or lake or stream beds, and in the event of change in the location of shorelines or lake or stream beds, shall be construed as moving with the shoreline and lake or stream bed.
- E. Boundaries indicated as approximately following property lines, section lines or other lines of a government survey shall be construed as following such property lines, section lines or other lines of a government survey as they exist as of the effective date of this Ordinance or applicable amendment thereto.

**SECTION 20.04 AREAS NOT INCLUDED WITHIN A DISTRICT**

In every case where land has not been included within a district on the zoning map, such land shall be in the R-R District.

**SECTION 20.05 INTERPRETATION**

- A. In the interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements adopted for the promotion of the public health, morals, safety, comfort, convenience or general welfare.
- B. It is not intended by this Ordinance to repeal, abrogate, annul, or in other way impair or interfere with existing provisions of other laws or ordinances, except those specifically repealed by this Ordinance, or of any private restrictions placed upon property by covenant, deed, or other private agreement; provided, however, that where any provision of this Ordinance imposes more stringent requirements, regulations, restrictions or limitations upon the erection or use of land and buildings, or upon the height of buildings and structures, or upon the safety and sanitary measures, or requires larger yards or open spaces than are imposed or required by the provisions of any other law or ordinance, or any said rules, regulations, permits, or easements, then the provisions of this Ordinance shall govern.
- C. Nothing in this Ordinance should be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification or any permissible activities therein; and they are hereby declared to be subject to subsequent amendment, change or modification as may be necessary to the preservation or protection of public health, safety and welfare.

**SECTION 20.06 ZONING PERMIT REQUIRED**

- A. No person shall commence construction of any building or structure or make structural changes in any existing structure or use of a parcel of land in the township without first obtaining a zoning permit from the Zoning Administrator. There shall be an application fee established by the Township Board.
- B. The Zoning Administrator shall not issue a zoning permit for the construction, alteration, or remodeling of any structure or use of any property until an application has been submitted showing that the proposed construction or use complies with all of the provisions of this ordinance.

- C. Zoning permits shall be valid for a period of not more than 180 days. The Zoning Administrator may renew permits for one additional successive period of up to 180 days at the same location and for the same purpose.

**SECTION 20.07 ADMINISTRATIVE OFFICIALS**

- A. Except as otherwise provided, the Zoning Administrator shall administer and enforce this Ordinance.
- B. With regard to the National Flood Insurance Program and the regulation of development within the flood hazard area as prescribed in Article XVIII the duties of the Zoning Administrator shall include, but are not limited to:
  - 1. Notification to adjacent communities and the Department of Natural Resources of the proposed alteration or relocation of any watercourse, and the submission of such notifications to the Federal Insurance Administration;
  - 2. Verification and recording of the actual elevation in relation to mean sea level of the lowest floor, including basement, of all new or substantially improved structures constructed within the flood hazard area, and in the case of flood proofed structures, the elevation to which the structure was flood-proofed; and
  - 3. Recording of all certificates of flood-proofing and written notification to all applicants to whom variances are granted in a flood hazard area indicating the terms of the variance, the increased danger to life and property, and the increased cost of flood insurance commensurate with the increased flood risk which may reach amounts in excess of \$25.00 for \$100.00 of insurance coverage per year. A record of all variance notifications and variance actions shall be maintained together with the justification for each variance.
- C. All records and maps pertaining to the National Flood Insurance Program shall be maintained in the office of the Zoning Administrator and shall be open for public inspection.
- D. It shall be the responsibility of the Zoning Administrator to obtain and utilize the best available flood hazard data for purposes of administering this Ordinance in the absence of data from the Federal Insurance Administration.

**SECTION 20.08 PERMIT APPLICATION**

- A. In addition to the information required with an application for a zoning compliance permit, special use permit or any other type of development permission required under this Ordinance, the following information shall be submitted as a part of an application for permission to commence any type of development within a flood hazard area:
  - 1. The elevation in relation to mean sea level of the floor, including basement, of all structures;
  - 2. Where flood-proofing will be employed, the elevation in relation to mean sea level to which a structure will be flood-proofed;

3. Where flood-proofing will be employed, a certificate from a registered professional engineer or architect that the flood-proofing criteria of this Ordinance will be met;
  4. Where it can be determined that development is proposed within zones A1-A30 on the FIRM a certification as required by this Ordinance;
  5. A description of the extent to which any watercourse will be altered or relocated as a result of proposed development;
  6. Proof of development permission from the appropriate federal, state and local agencies as required by Section 18.03(1)c, including a floodplain permit, approval, or letter of no authority from the Natural Resources and Environmental Protection Act (NREPA), 1994 PA 451;
  7. Base flood elevation data where the proposed development is subject to Natural Resources and Environmental Protection Act (NREPA), 1994 PA 451 or is greater than five acres in size; and
  8. Additional information which may be reasonably necessary to determine compliance with the provisions of this Ordinance.
- B. One copy of plans and specifications shall be retained by the Zoning Administrator. The other copy shall be delivered to the applicant upon issuance of a zoning permit.
- C. The Zoning Administrator may, upon approval of the Planning Commission, waive portions of the foregoing permit requirements which are not necessary under the particular circumstances for compliance with the Ordinance.

The Zoning Administrator shall provide a copy of the zoning permit to the Township Clerk, the Township building inspector, and the secretary of the Planning Commission.

## **SECTION 20.09 REMEDIES AND ENFORCEMENT**

Any person, firm or corporation, including an agent, in charge of any structure or land who violates, disobeys, omits, neglects or refuses to comply with or resists the enforcement of any provision of this Ordinance or any amendment thereof, shall be responsible for a civil infraction and subject to fines as published by the Township from time to time. Each day a violation continues shall be deemed to be a separate offense. In addition to other sanctions, the Township may institute an appropriate court proceeding to prevent, enjoin, abate or remove any violation of this Ordinance, compel compliance with this Ordinance, or seek other equitable or injunctive relief. Persons determined to be in violation of this Ordinance shall be required to reimburse the Township for its actual costs of prosecution, including court costs and reasonable attorney fees.

## **SECTION 20.10 PUBLIC NUISANCE, PER SE**

Any building or structure which is moved, erected, repaired, altered, or converted, or any use of premises or land which is begun or changed subsequent to the time of passage of this Ordinance and in violation of any of the provisions thereof is hereby declared to be a public nuisance, per se, and may be abated by order of any court of competent jurisdiction.

**SECTION 20.11 FINANCIAL GUARANTEES OF PERFORMANCE**

- A. When a financial guarantee of performance may be required under the terms of this Ordinance, the Township may require a cash deposit, certified check, letter of credit, bond, or other similar type of financial guarantee acceptable to the Township to insure compliance with applicable provisions of the Ordinance. The financial guarantee shall be deposited with the Township Clerk at the time any permits or other approval authorizing the project or activity which requires the financial guarantee are issued. As work progresses, the Township may authorize a proportional rebate of the financial guarantee upon completion of significant phases of the project.
- B. The Zoning Administrator, Planning Commission, Zoning Board of Appeals, and Township Board are empowered to require a financial guarantee of performance in the form of a bond, cashier's check, cash or other suitable negotiable security, in an amount equal to the estimated cost of improvements associated with the project which is the subject of such guarantee.
- C. Such financial guarantee of performance shall be deposited with the Clerk of the Township at the time of the issuance of the permit authorizing the activity or project to insure faithful completion of the improvements indicated with the approved site plan. If said improvements are not completed such security shall be forfeited, either in whole or in part.
- D. The Township shall rebate a proportional share of cash deposits only when requested by the depositor, based on the percent of improvements completed, as attested to by the depositor and verified by the Zoning Administrator.
- E. In cases where the improvements indicated with the approved site plan have not been completed in accordance with the approval granted, the amount of the aforementioned financial guarantee of performance may be used by the Township to complete the required improvements. The balance if any shall be returned to the depositor.

**SECTION 20.12 RIGHTS AND REMEDIES**

The rights and remedies provided herein are cumulative and in addition to other remedies provided by law.

**SECTION 20.13 SEVERABILITY**

The Ordinance and various Articles, sections, paragraphs, and clauses thereof, are hereby declared to be severable. If any Article, section, paragraph, or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of the Ordinance shall not be affected thereby.

**SECTION 20.14 GENERAL RESPONSIBILITY**

The Township Board or its duly authorized representative is hereby charged with the duty of enforcing the Ordinance and said Board is hereby empowered, in the name of Fruitland Township, to commence and pursue any and all necessary and appropriate actions and/or proceedings in the Circuit Court of Muskegon County, Michigan, or any other court having

jurisdiction, to restrain and/or prevent any non-compliance with or violation of any of the provisions of this Ordinance, and to correct, remedy, and/or abate such non-compliance or violation. And it is further provided that any person aggrieved or adversely affected by such a non-compliance or violation may institute suit and/or join the Township Board in such a suit to abate the same.

**SECTION 20.15 ENACTMENT**

The provisions of this Ordinance are hereby declared to be immediately necessary for the preservation of the public peace, health, safety, and welfare of the people and are hereby ordered to become effective seven (7) days following publication of a “Notice of Ordinance Adoption” in a newspaper circulating within Fruitland Township. The effective date of this Zoning Ordinance is March 23, 2003.

Adoption Date: February 24, 2003  
Published Date: March 16, 2003  
Effective Date: March 23, 2003

I, Janell Beard, Clerk of Fruitland Township, do hereby acknowledge that Public Hearings were held regarding the foregoing zoning ordinances by the Fruitland Township Planning Commission and properly noticed according to statutory requirements, and verify that the Fruitland Township Planning Commission record of findings that substantiate the recommendation of adoption has been received and reviewed by the Fruitland Township Board; and do hereby certify that the foregoing is a true and complete copy of the zoning ordinances recommended for adoption by the Fruitland Township Planning Commission, and that the Fruitland Township Board did formally adopt the zoning ordinances at a properly noticed rescheduled regular meeting of the Fruitland Township Board held on the twenty-fourth day of February, in the year 2003.

Amended: May 18, 2015  
Published: June 28, 2015  
Effective: July 6, 2015

## **ARTICLE XXI AMENDMENTS**

### **SECTION 21.01 INTENT AND PURPOSE**

For the purpose of establishing and maintaining sound, stable and desirable development within the territorial limits of Fruitland Township, this Ordinance shall not be amended except to correct an error in the Ordinance, or because of changed or changing conditions in a particular area in the township, to rezone an area, extend the boundary of an existing district or to change the regulations and restrictions thereof. It is intended that the provisions of this ordinance be consistent with the requirements of the Zoning Act. If this Article conflicts with the Zoning Act, the provisions of the Zoning Act shall control.

### **SECTION 21.02 AMENDMENT INITIATION**

Only the Township Board may amend this Ordinance. Proposals for amendments or changes may be initiated by the Township Board on its own motion, by the Planning Commission, or by petition of one or more owners of property to be affected by the proposed amendment. Each proposed Zoning Ordinance amendment or supplement shall be referred to the Planning Commission for its consideration and a recommendation to the Township Board. The Planning Commission shall hold at least one public hearing in accordance with the requirements of PA 110 of the Public Acts of 2006 as amended.

### **SECTION 21.03 AMENDMENT PROCESS**

- A. Petitioner submits an application and pays the fee established by the Township Board.
- B. Clerk transmits application to Planning Commission, sets hearing date and publishes notices of hearing as prescribed by Section 21.04 B herein.
- C. Planning Commission holds hearing and makes a recommendation to the Board. A summary of the comments received at the public hearing, along with the recommendation are then forwarded to the Township Board.
- D. The Township Board either enacts or rejects proposed changes as an Ordinance amendment or, if the Township Board considers amendments, changes, additions or departures to the proposed Ordinance advisable, it shall refer the same to the Planning Commission for a report thereon within a time period specified by the Township Board. After receiving the report, the Township Board shall grant a hearing on a proposed ordinance provision to a property owner who, by certified mail addressed to the Clerk, requests a hearing, and the Township Board shall request the Planning Commission to attend the hearing. After the hearing, the Township Board may adopt, by majority vote of its membership, pursuant to the Zoning Act, a zoning ordinance or amendments to the zoning ordinance and publish either a summary of the amendment, including the geographic area affected, or the text of the amendment change in the local newspaper.

## **SECTION 21.04 PROCEDURES**

The procedure for making amendments to this Ordinance shall be in accordance with the Zoning Act.

- A. A petition, together with a completed and signed application and fees, shall be filed with the Township Clerk. The Clerk shall review the application as to form, and when it is approved, transmit same to the Planning Commission for review and report. The Clerk shall establish a date for a public hearing. The Planning Commission shall give proper notice of the hearing as provided in the Zoning Act. The public hearing requirement shall also apply to amendments initiated by the Township Board or the Planning Commission.
  
- B. Notice of the hearing shall be given by publication in a newspaper of general circulation in the Township. Such notices shall be sent in accordance with the Zoning Act.
  - 1. The applicant;
  - 2. The owner (or other owners) of the property if different;
  - 3. Electric, gas, pipeline, telephone public utility company, railroad operating within the district or zone affected and the airport manager of any airport that registers its name and mailing address with the Township;
  - 4. If the zoning amendment is for less than 11 adjacent properties, the owners of all real property within 300 feet of the boundary for the property for which the approval has been requested as shown by the latest assessment roll, regardless of whether the owners and property is located in the zoning jurisdiction or not.
  - 5. If the zoning amendment is for less than 11 adjacent properties, occupants of any structures within 300 feet of the boundary for the property for which the approval has been requested, regardless of whether the owner and property is located in the zoning jurisdiction or not. If the name of the occupant is not known, the term "occupant" may be used in making notification. 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. In structures containing four or fewer dwelling units, only one occupant of each unit must be given notice for a public hearing.
  - 6. The general public by publication in a newspaper which circulated in Fruitland Township.
  - 7. Members of the planning commission or legislative body and planning commission if the hearing is being held by the legislative body.
  - 8. The notice shall include:
    - a. The nature of the zoning amendment being requested;
    - b. The property(ies) for which the zoning amendment has been made;

- c. If the zoning amendment is for less than 11 adjacent properties, also a listing of all existing street addresses within the property(ies) which is (are) subject of the zoning amendment. (Street addresses do not need to be created and listed if no such addresses currently exist or if the request is for an ordinance interpretation not involving a specific property. If there are no street addresses, another means of identification may be used.)
- d. The location where the application documents can be viewed and copies prior to the date of the zoning amendment hearing.
- e. The date, time and location of when the hearing on the zoning amendment will take place.
- f. The address at which written comments should be directed prior to the hearing on the zoning amendment.
- g. For members of the planning commission only, a copy of the request for the zoning amendment, the draft of the zoning amendment and supporting documents in the record.

An amendment for the purpose of conforming a provision of the zoning ordinance to the decree of a court of competent jurisdiction as to any specific lands may be adopted by the Township Board and the notice of the adopted amendment published without referring the amendment to any other board or agency.

**SECTION 21.05 APPLICATION INFORMATION**

When the petition involves a change in the Zoning Map, the petitioner shall submit a detailed description of the proposal, including the following information:

- A. A legal description of the property.
- B. A map of the property, to scale, correlated with the legal description and clearly showing the property's location.
- C. The name and address of the petitioner.
- D. The petitioner's interest in the property.
- E. Date of filing with the Township Clerk.
- F. Signature(s) of petitioner(s) and owner(s) certifying the accuracy of the required information.
- G. The desired change and reasons for such change.



**SECTION 21.06      FACT FINDING**

In reviewing any petition for a zoning amendment, the Planning Commission shall identify and evaluate all factors relevant to the petition and shall report its findings in full, along with its recommendation for disposition of the petition to the Township Board within 90 days of the filing date of the petition.

## **ARTICLE XXII CONSOLIDATED PUBLIC NOTICES**

### **SECTION 22.01 PUBLIC NOTICES**

Upon receipt of an application for a special land use which requires a discretionary decision, the Planning Commission publishes and provides required notices of public hearings as follows:

1. Publish notice of the request in a newspaper of general circulation in Fruitland Township.
2. Notice shall also be sent by mail or personal delivery to the owners of property for which approval is being considered. Notice shall also be sent to all persons to whom real property is assessed within 300 feet of the property and to the occupants of all structures within 300 feet of the property regardless of whether the property or occupant is located in the zoning jurisdiction.
3. The notice shall be given not less than 15 days before the date the application will be considered for approval. If the name of the occupant is not known, the term "occupant" may be used in making notification. The notice shall do all of the following:
  - a. Describe the nature of the request.
  - b. Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the 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.
  - c. State when and where the request will be considered.
  - d. Indicate when and where written comments will be received concerning the request.

## **ARTICLE XXIII WIND ENERGY SYSTEM (WES)**

### **SECTION 23.01 PURPOSE**

The purpose of this section is to establish standards and procedures by which the installation and operation of a WES shall be regulated within the Township, in order to promote the safe, effective, and efficient use of wind energy.

### **SECTION 23.02 DEFINITIONS**

- A. **Wind Energy System (WES)** – A land use for generating power by use of wind; utilizing use of a wind turbine generator and includes the turbine, blades, and tower as well as related electrical equipment. This does not include wiring to connect wind energy system to the grid. See also On Site Wind Energy System and Utility Grid Wind Energy System.

(Note: For purposes of this section a windmill traditionally used to pump water shall not be considered a Wind Energy System.)

- B. **On Site Use Wind Energy System** – A land use for generating electric power from wind and is an accessory use that is intended to primarily serve the needs of the consumer at that site.
- C. **Wind Farm** – Clusters of two or more WES placed upon a parcel or parcels with the intent to sell or provide electricity to a site or location other than the premises upon which the WES are located. The WES may or may not be owned by the owner of the property upon which the WES is placed.
- D. **Utility Grid Wind Energy Systems** – A WES designed and constructed to provide electricity to the electric utility grid.
- E. **Building Mounted WES** – A WES mounted or attached to building.
- F. **Tower Mounted WES** – A WES mounted or attached to a tower, pole, or similar structure which is not a building.
- G. **Interconnected WES** – A WES which is electrically connected to the local electrical power utility system and can provide power to the local electrical power utility system.

- H. **WES Height** – The distance from the ground at normal grade and the highest point of the WES which is the tip of a rotor blade when the blade is in full vertical position.
- I. **WES Setback** – The distance from the base of the tower or structure upon which the WES is mounted to the nearest lot line. In the case of multiple parcels utilized for multiple or single WES, the setbacks shall be taken from the outside boundary of the parcels utilized for the WES project.
- J. **Nacelle** - In a wind turbine, the nacelle refers to the structure which houses all of the generating components, gearbox, drive train, and other components.
- K. **Shadow Flicker** – Alternating changes in light intensity caused by the moving blade of a WES casting shadows on the ground and stationary objects such as dwellings.
- L. **Applicant** – The person, firm, corporation, company, limited liability corporation or other entity which applies for Township approval under this section, as well as the applicant’s successor(s), assign(s), and/or transferee(s) to any approved WES. An applicant must have the legal authority to represent and bind the landowner or lessee who will construct, own and operate the WES. The obligations regarding a zoning approval for any approved WES shall be with the land owner and the owner(s) of the WES and jointly and severally with the owner and operator or lessee of the WES if different than the owner.

**SECTION 23.03 STANDARDS FOR ALL WIND ENERGY SYSTEMS**

All WES applications shall require fees as established by the Township Board and submitted along with the Zoning Compliance Permit Application and comply with the following:

- (1) **Diagram** – Applicant shall submit a Zoning Compliance Permit Application for approval which must provide a drawing with accurate measurements which would illustrate at a minimum the following:
  - (a) Height of the Wind Energy System.
  - (b) Property lines with dimension.
  - (c) Buildings on the site.
  - (d) Location of the Wind Energy System including any guy wires and distribution lines.
  - (e) Tower Safety Features.

- (f) Size of rotor or blades.
  - (g) The setbacks from the property lines.
- (2) Setbacks
- (a) A tower mounted WES shall be set back from all lot lines a distance which is at least equal to 1.25 times the height of the WES as measured from the lot line to the base of the tower and no portion of the WES, including the guy wire anchors, shall be located within or above the required front, side, or rear yard setback.
  - (b) A building mounted WES shall have a distance from the nearest property line which is at least equal to 1.25 times the height of the WES as measured from the point of attachment to the structure or building to the top of the WES with the blade in the vertical position.
- (3) Shared WES Usage – An On Site Use WES may provide electrical power to more than one dwelling unit, provided the dwelling units are located on property or properties that are adjacent to the property or properties on which the WES is located.
- (4) Rotor or Blade Clearance
- (a) Blade arcs created by a tower mounted WES shall have a minimum of 30 feet of clearance over and from any structure, adjoining property or tree.
  - (b) The blade arcs created by a building mounted WES shall have a minimum clearance of eight feet or be designed so the blade or other moving parts do not present a safety hazard.
- (5) Lighting - Prohibited.
- (6) Sound Pressure Level
- (a) On Site Wind Energy systems shall not exceed 55 dB (A) at the property line closest to the WES. This sound pressure level may be exceeded during short-term events such as severe wind storms. If the ambient sound pressure level exceeds 55 dB (A), the standard shall be ambient dB (A) plus 5 dB (A).

- (b) Utility Grid Wind Energy Systems and Wind Farms shall be measured at the property line closest to the WES at the outside boundary of all property used for the Utility Grid Wind Energy System. In addition, the applicant shall provide modeling and analysis that will demonstrate that the Utility Grid Wind Energy System or Wind Farm will not exceed the maximum permitted sound pressure.
- (7) Shadow Flicker – The Planning Commission or Zoning Administrator may request that the applicant at their own expense perform an analysis of potential shadow flicker. The analysis shall identify locations of shadow flicker that may occur, and shall describe measures such as screening that shall be taken to eliminate or minimize the shadow flicker.
  - (8) Siting Standards and Visual Impact – The colors and surface treatment of the WES and supporting structures shall be non-obtrusive such as white, off white or gray. No part of the structure shall be used for signs or advertising.
  - (9) Construction Codes and Interconnection Standards
    - (i) All applicable state construction and electrical codes and local building permit requirements.
    - (ii) Federal Aviation Administration requirements.
    - (iii) The Michigan Airport Zoning Act, Public Act 23 of 1950, as amended.
    - (iv) The Michigan Tall Structures Act, Public Act 259 of 1959, as amended.
    - (v) Regulations for private landing strips in or adjacent to Fruitland Township.
    - (vi) The Michigan Public Service Commission and Federal Energy Regulatory Commission if the WES is an interconnected system.
  - (10) Environment – The Planning Commission or Zoning Administrator may request that the applicant at their own expense demonstrate compliance with all relevant Federal, State and Local Natural Resources and Environmental Laws.
  - (11) Safety
    - (i) Each WES shall be equipped with both a manual and automatic braking device capable of stopping the WES operation in high winds, or must be designed so that the rotational speed of the rotor blade does not exceed the design limits of the rotor.
    - (ii) To prevent unauthorized access, each WES excluding building mounted must comply with at least one of the following provisions, and more than one if required by the Planning Commission:

- (1) Tower climbing apparatus shall not be located within 12 feet of the ground.
  - (2) A locked anti-climb device shall be installed and maintained.
  - (3) A tower capable of being climbed shall be enclosed by a locked, protective fence at least ten feet high.
- (iii) All WES shall have lightning protection.
  - (iv) If a tower is supported by guy wires, the wires shall be clearly visible to height of at least 10 feet above the guy wire anchors
  - (v) The minimum height of the lowest position of the rotor or blade shall be at least 30 feet above the ground except for building mounted WES.
- (12) Signs
- (i) Each WES shall have one sign not to exceed two square feet posted at the base of the tower, or, if the structure is fenced, on the fence. The sign shall include the following information:
    - (1) The words “Warning: High Voltage
    - (2) Emergency phone numbers.
    - (3) Shutdown procedure as applicable.
  - (ii) A WES shall not include any advertising of any kind, except the nacelle may have lettering that exhibits the manufacturer’s and/or owner’s identification.
- (13) Electromagnetic Interference – WES shall be designed, constructed and operated so as not to cause radio and television interference.
- (14) Maintenance – WES must be kept and maintained in good repair and condition at all times and shall not pose a potential safety hazard.
- (15) Distribution Lines – All distribution lines from the WES shall be located and maintained underground, both on the property where the WES will be located and off-site. The Planning Commission may waive the requirement that distribution lines for the WES which are located off-site (i.e. are not located on or above the property where the WES will be located) be located and maintained underground if the Planning Commission determines that to install, place, or maintain such distribution lines underground would be impractical or unreasonably expensive.

**SECTION 23.04 WIND ENERGY SYSTEMS ALLOWED AS A PERMITTED USE**

Any On Site Use Wind Energy System which is 65 feet or less in total height and that meets all the other criteria of this section shall be a permitted use in all zoning districts, except that such WES shall not be allowed in lake or stream bottoms, and shall be subject to the following:

- (1) The height of the WES with the blade in vertical position shall not exceed 65 feet. The WES shall not be operated or otherwise remain on property unless a permit has been issued by the Township as described herein.
- (2) In order to obtain a permit, the applicant shall file a zoning application, pay the application fee and provide a copy of the manufacturer's installation instructions and any blueprints. At least 7 days prior to issuing a permit the Zoning Administrator shall send written notice of the application to the owners of all adjoining parcels. The Zoning Administrator shall inform the Planning Commission of the issuance of any permits and a summary of any comments received concerning the application or permit no later than the next regular Planning Commission meeting.
- (3) Either the Zoning Administrator or other authorized agent of the Township shall review all the WES plans prior to issuance of a permit to determine that the proposed WES complies with requirements of this ordinance, any other applicable federal, state or local codes or requirements and also the manufacturer's installation instructions. In reviewing the plans, the Zoning Administrator shall have the right, but not the duty, to consult with the Planning Commission on compliance issues before making a decision. The WES as constructed shall be subject to a final inspection by the building inspector.

**SECTION 23.05 WIND ENERGY SYSTEMS REQUIRING A SPECIAL LAND USE PERMIT**

Any WES including a structure mounted WES which is greater than 65 feet in height may be allowed as a Special Land Use, in all zoning districts, except that such WES shall not be allowed in lake or stream bottoms, subject to the regulations and requirements of this Section and also the general special land use review procedures and standards of this Zoning Ordinance.



## **ARTICLE XXIV MET TOWER**

### **SECTION 24.01 PURPOSE**

For purposes of this Section a MET Tower is a meteorological tower used for the measurement of wind speed and may be permitted as a Special Use in all zoning districts subject to the regulations and requirements of this section and also the Special Land Use Specific Requirements of Article XIV, Section 14.04 of this Zoning Ordinance.

### **SECTION 24.02 APPLICATION REQUIREMENTS**

An applicant for a MET Tower shall submit an application in accordance with the Special Land Use requirements of Section 14.04 of this Ordinance and shall also submit the following materials;

- (1) A description of the number and type of MET tower(s) to be installed and the expected length of time that the MET tower will be operable.
- (2) A description of the height of the MET Tower as well as standard drawings of the structural components of the MET Tower including structures, towers, bases, and footings. A registered engineer shall certify the drawings and any necessary calculations that show that the system complies with all applicable local, state, and federal building, structural and electrical codes.
- (3) An explanation of the purpose of the tower, the type, height and number of wind energy systems anticipated to be proposed for installation on the site or nearby.
- (4) A statement from the applicant that the MET tower will be installed in compliance with the manufacturer's specifications and a copy of the manufacturer's specifications.
- (5) A description of the tower maintenance program.
- (6) A decommissioning plan explaining the process to be undertaken by the applicant for tearing down the tower and removing all tower equipment, materials and structures and restoring the site so it can be used for a use permitted in that Zoning District.
- (7) Security measures including emergency contact personnel.
- (8) Ten copies of a site plan drawn at a scale of not more than one inch equals 100 feet however a larger scale may be accepted by the Planning Commission depending upon the size of the parcel. The site plan shall contain at a minimum the following information unless specifically waived by the Planning Commission.

- (a) The date on which the site plan was prepared.
- (b) A north arrow and legal description of the property.
- (c) Property lines and dimensions of the parcel containing the tower, as well as the area leased for the tower if applicable, the height of the MET tower and its distance to all property lines.
- (d) Any buildings or structures existing on the site and the use of the parcel.
- (e) The distance to the closest building on adjacent property.
- (f) The location of any overhead transmission lines on the site or on adjacent property which might be affected by the MET tower
- (g) Guy wires, guy wire anchors and any other tower supporting structure or device.
- (h) Type and height of fencing to be installed around the tower or an equipment building.
- (i) Elevation drawings of any buildings designed to serve the tower.
- (j) Access road; width and construction standards.
- (k) Any lighting proposed to be located on the tower.

**SECTION 24.03 GENERAL REQUIREMENTS**

A MET tower shall comply with all of the following:

- (1) The tower shall be setback from all property lines a distance of not less than 1.25 times the height of the tower as measured from the base of the tower.
- (2) All applicable state construction and electrical codes and local building permit requirements.
- (3) Federal Aviation Administration requirements. All tower lighting required by the FAA shall be shielded to the extent possible to reduce glare and visibility from the ground. The tower shaft shall not be illuminated unless required by the FAA, and the minimum FAA lighting standards shall not be exceeded.
- (4) The Michigan Airport Zoning Act (Public Act 23 of 1950).
- (5) The Michigan Tall Structures Act (Public Act 259 of 1959).
- (6) A MET tower which is unused or abandoned shall be removed, along with any associated buildings and structures, by the owner/operator within 90 days of the date of a written notice from the Township. An extension of 90 days may be granted by the Planning Commission upon a request from the owner/operator citing extenuating circumstances beyond their control in removing the tower within the initial 90 day period.
- (7) In removing the tower the owner/operator shall comply with the decommissioning plan submitted by the applicant and as approved by the Planning Commission.

**SECTION 24.04 PLANNING COMMISSION REVIEW**

The Planning Commission shall review the proposed MET tower according to the standards for Special Land Uses contained in Section 14.04 herein. The Commission may approve a MET tower for a specified period of time subject to renewal by the Planning Commission.

The Commission may impose reasonable conditions in its approval of a MET tower in accordance with Article XIV herein including but not limited to a requirement that the applicant provide regular reports regarding the maintenance and condition of the tower.

In approving a MET Tower the Commission shall require that the applicant provide a performance guarantee in a form and amount acceptable to the Township for the cost of removing the MET tower and restoration of the site

**SECTION 24.05 REPEAL**

All Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed to the extent of any such conflict.

**SECTION 24.06 SEVERABILITY**

The various parts, section, and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance will not be affected thereby.

**SECTION 24.07 EFFECTIVE DATE**

This Ordinance shall take effect seven days after its publication as provided by the provisions of the Michigan Zoning Enabling Act, MCLA 125.3401, et seq.

**ARTICLE XXV  
PLANNING COMMISSION**

**SECTION 25.01 PURPOSE**

The purpose of this ordinance is to confirm the establishment of a Planning Commission for Fruitland Township as authorized by P.A. 33 of 2008, as amended, being the Michigan Planning Enabling Act, (M.C.L. 125.3801 *et. seq.*) and to organize and enumerate the powers and duties of the Planning Commission as provided by law and repeal any ordinance or parts of ordinance or resolutions in conflict with this ordinance. The powers and duties of the Planning Commission shall include the regulation and subdivision of land, and coordination of development with other constituted authorities and of incorporated and unincorporated areas where Fruitland Township exists.

**SECTION 25.02 MEMBERS**

- A. The Commission shall consist of seven members. To be qualified to be a member and remain a member of the Planning Commission, the individual shall meet the following qualifications:
1. The member shall be a qualified elector of Fruitland Township, except that one member may be a non-qualified elector who lives outside the boundaries of the Township;
  2. One member shall also be a member of the Fruitland Township Board of Trustees, whose term of office shall coincide with his or her elected term office on the Board of Trustees. This member shall not serve as the chairperson of the Planning Commission.
  3. Except as provided in Section 25.02 A. 2., an employee or elected officer of Fruitland Township shall not serve as a member of the Planning Commission.
  4. The membership shall be representative of the important segments of the community, such as the economic, governmental, educational, and social development of Fruitland Township, in accordance with the major interests as they exist in the township as follows:
    - a. Agriculture;
    - b. Natural resources;
    - c. Recreation;
    - d. Education;
    - e. Public health;
    - f. Government;
    - g. Transportation;
    - h. Industry;
    - i. Commerce;

5. The membership shall also be representative of the entire geography of Fruitland Township to the extent practicable.

**SECTION 25.03 MEMBERSHIP - APPOINTMENT AND TERMS**

- A. The Township Supervisor, with the approval of the Township Board by a Majority vote of the members elected and serving, shall appoint all planning commission members, including the ex officio member.
- B. Members shall be appointed for three-year terms. However when first appointed a number of members shall be appointed to one-year, two-year, or three-year terms such that, as nearly as possible, the terms of  $\frac{1}{3}$  of all commission members will expire each year. If a vacancy occurs, the vacancy shall be filled for the unexpired term in the same manner as provided for an original appointment such that, as nearly as possible, the terms of  $\frac{1}{3}$  of all commission members continue to expire each year. For a seven member Planning Commission,  $\frac{1}{3}$  of all commission members shall be two commissioners.
- C. At the beginning of each year the Fruitland Township Clerk shall determine which members' terms of office expire, and may seek applications and nominations for Commission members.
- D. The Fruitland Township Board shall consider the applications and nominations received, and members shall be appointed as provided in Section 3A for a three year term of office.
- E. Removal from office. The Fruitland Township Board of Trustees may remove a member of the Commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing. Failure to disclose a potential conflict of interest shall be considered malfeasance in office. Failure to repeatedly attend Commission meetings shall be considered nonfeasance in office.
- F. Absences. The secretary of the Planning Commission shall report any member who has missed three regular meetings in a row to the Fruitland Township Board of Trustees.
- G. Vacancies. The Fruitland Township Board of Trustees shall fill any vacancy in the membership of the Commission for the unexpired terms in the same manner as the initial appointment.
- H. Membership transition. The transition from the previous Fruitland Township Planning Commission and the Commission established in this ordinance shall be gradual and shall take place over the next three years. The Fruitland Township Board of Trustees shall continue to make annual appointments, appointing approximately  $\frac{1}{3}$  of the membership of the Commission as specified in this Ordinance, so that three years from the effective date of this ordinance the membership, membership representation, and number of members have completed the transition to fully comply with this Ordinance and PA 33 of 2008, the Michigan Planning Enabling Act.
- I. All other aspects of this ordinance shall have immediate effect.

- J. Membership compensation. All members of the Planning Commission shall serve as such with compensation as established by the Fruitland Township Board of Trustees.

**SECTION 25.04 MEETINGS**

- A. The Commission shall meet monthly as required and a majority of the Commission shall constitute a quorum for the transaction of the ordinary business of said Commission. All questions which shall arise at their meetings shall be determined by a vote of the majority of the members of the Planning Commission which are present, so long as a quorum is present.
- B. The affirmative vote of the majority of the total number of seats for members of the Commission, regardless if vacancies or absences exist or not, shall be necessary for the adoption of the Master Plan, or recommendation for adoption of any amendments to the Master Plan.

**SECTION 25.05 POWERS AND DUTIES**

- A. The Commission shall have their powers and duties as set forth in P.A. 33 of 2008, as amended, being the Michigan Planning Enabling Act, M.C.L. 125.3801 *et seq.*; and P.A. 110 of the Public Acts of 2006, as amended, being the Michigan Zoning Enabling Act, (M.C.L. 125.3101 *et seq.*). In addition, duties shall include the following:
1. Take such action on petitions, staff proposals and Township Board requests for amendments to the zoning ordinance as required.
  2. Take such action on petitions, staff proposals and Township Board requests for amendments to the master plan as required.
  3. Prepare and adopt bylaws for the transaction of business, and keep a public record of its resolutions, transactions, findings and determinations.
  4. Prepare an annual report to the Township Board concerning operations and the status of planning activities, including recommendations regarding legislative actions related to planning and development.
  5. Prepare an annual work budget, to be included in the annual report.
  6. Take such actions as are required by the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended.
  7. Review subdivision and condominium proposals and recommend appropriate actions to the Township Board.
  8. Prepare special studies and plans, as deemed necessary by the Planning Commission or Township Board and for which appropriations of funds have been approved by the Township Board, as needed.

9. Attend training sessions, conferences, or meetings as needed to properly fulfill the duties of Planning Commissioner and for which appropriations of funds have been approved by the Township Board, as needed.
10. Perform other duties and responsibilities or respond as requested by any Township Board or commission.
11. The Planning Commission, assisted by Township Staff, may prepare an annual Capital Improvements Program (CIP) if so directed by the Township Board as part of the Township budget process. The CIP shall show those public structures and improvements in their general order of priority that will be needed or desirable and can be undertaken within the ensuing six year period. The CIP shall be forwarded as a recommendation to the Township Board if prepared by the Planning Commission.

If the Township Board exempts the Planning Commission from preparing the CIP then the Township Board, after the master plan is adopted, shall prepare or cause to be prepared by the Township Supervisor or by a designated non-elected administrative official, a capital improvements program of public structures and improvements, showing those structures and improvements in general order of their priority, for the following 6-year period.

#### **SECTION 25.06 STAFF**

- A. The Commission may recommend to the Township Board a planning director, planning consultant, or other planning staff within the budget provided for this purpose.
- B. The appointment of the planning director, planning consultant, and other such employees shall be subject to the same provisions of law, employment policies, employee roster, employee or union contracts, if any, as govern other employees of Fruitland Township.

#### **SECTION 25.07 APPROVAL, RATIFICATION, AND RECONFIRMATION**

All official actions taken by all Fruitland Township Planning Commissions preceding the Commission created by this ordinance are hereby approved, ratified and reconfirmed. Any project, review, or process taking place at the effective date of this Ordinance shall continue with the Commission created by this ordinance, subject to the requirements of this Ordinance, and shall be deemed a continuation of any previous Fruitland Township Planning Commission. This Ordinance shall be in full force and effect from and after its adoption and publication.

#### **SECTION 25.08 REPEAL**

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed. The resolution or ordinance establishing the Fruitland Township Planning Commission under the Township Planning Act, Public Act 168 of 1959, MCL 125.321, et seq., is hereby repealed

**ARTICLE XXVI  
WIRELESS TELECOMMUNICATIONS ORDINANCE**

**SECTION 26.01      PURPOSE**

The purpose of this Wireless Telecommunications Ordinance is to ensure that residents, public safety operations and businesses in the Township have reliable access to wireless telecommunications networks and state of the art communications services while also ensuring that this objective is achieved in a fashion that preserves the intrinsic aesthetic character of the community and is accomplished according to the Township’s zoning, planning, and design standards, the Telecommunications Act of 1996 preserved, the Sequestration Act of 2012 and the Michigan Zoning Enabling Act, PA 110 of 2006, as amended, with certain limitations, local government land use and zoning authority concerning the placement, construction and modification of Wireless Telecommunications Facilities.

To accomplish the above stated objectives and to ensure that the placement, construction or modification of Wireless Telecommunications Facilities complies with all applicable Federal laws and is consistent with the Township’s land use policies, the Township adopts this single, comprehensive, Wireless Telecommunications Ordinance.

**SECTION 26.02      INTENT**

This Ordinance establishes parameters for the siting of Wireless Telecommunications Facilities within the Township. By enacting this Ordinance it is the Township’s intent to:

- A.      Ensure the Township has sufficient wireless infrastructure to support its public safety communications throughout its jurisdiction;
- B.      Ensure access to reliable wireless communications services throughout all areas of the Township;
- C.      Encourage the use of Existing Structures for the collocation of Wireless Telecommunications Facilities;
- D.      Encourage the location of Support Structures, to the extent possible, in areas where any potential adverse impacts on the community will be minimized;
- E.      Facilitate the responsible deployment of Wireless Telecommunications Facilities in residential areas to ensure comprehensive wireless services across the Township;
- F.      Minimize the potential adverse effects associated with the construction of Monopoles and Towers through the implementation of reasonable design, landscaping and construction practices; and
- G.      Promote the public health, safety, welfare and convenience.



## **SECTION 26.03            DEFINITIONS**

For purposes of this Article XXVI and for site plan review of any proposed Antenna, Existing Structure, Support Structure, Telecommunications Facility, Concealed Telecommunications Facility, Equipment Compound, Wireless Telecommunications Equipment Shelter, Tower, Wireless Telecommunications Facility, Wireless Telecommunications Support Structure or Wireless Telecommunications Antenna the following words shall have the following meanings:

“Abandon” – Occurs when an owner of a Support Structure intends to permanently and completely cease all business activity associated therewith.

“Accessory Equipment” - Any equipment serving or being used in conjunction with a Telecommunications Facility or Support Structure. This equipment includes, but is not limited to, utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or other structures.

“Antenna(s)”- Any structure or device used to collect or radiate electromagnetic waves for the provision of services including, but not limited to, cellular, paging, personal communications services and microwave communications. Such structures and devices include, but are not limited to, directional antennas, such as panels, microwave dishes and satellite dishes, and omnidirectional antennas, such as whips. This definition does not apply to broadcast antennas, antennas designed for amateur radio use, or satellite dishes designed for residential or household purposes.

“Collocate” - Means to place or install Wireless Communications Equipment on an existing Wireless Communications Support Structure or in an existing Equipment Compound.

“Collocation” - The act of siting Telecommunications Facilities on an Existing Structure without the need to construct a new Support Structure and without a substantial increase in the size of an Existing Structure.

“Concealed Telecommunications Facility(ies)” - Any Telecommunications Facility that is integrated as an architectural feature of an Existing Structure or any new Support Structure designed so that the purpose of the Telecommunications Facility or Support Structure for providing wireless services is not readily apparent to a casual observer.

“Equipment Compound”- Means an area surrounding or adjacent to the base of a Wireless Communications Support Structure and within which Wireless Communications Equipment is located.

“Existing Structure(s)” – A previously erected Support Structure or any other structure, including but not limited to, buildings and water tanks, to which Telecommunications Facilities can be attached.

“Ordinary Maintenance” - Ensuring that Telecommunications Facilities and Support Structures are kept in good operating condition. Ordinary Maintenance includes inspections, testing and modifications that maintain functional capacity, aesthetic and structural integrity; for example the strengthening of a Support Structure’s foundation or of the Support Structure itself. Ordinary Maintenance includes replacing Antennas of a similar size, weight, shape and color and Accessory Equipment within an existing Telecommunications Facility and relocating the Antennas of approved Telecommunications Facilities to different height levels on an existing Monopole or Tower upon which they are currently located.

“Replacement” - Constructing a new Support Structure of proportions and of equal height or such other height that would not constitute a substantial increase to a pre-existing Support Structure in order to support a Telecommunications Facility or to accommodate Collocation and removing the pre-existing Support Structure.

“Support Structure(s)” – A structure designed to support a Telecommunications Facility including, but not limited to, Monopoles, Towers and other freestanding self-supporting structures.

“Telecommunications Facility(ies)” - Any unmanned Telecommunications Facility established for the purpose of providing wireless transmission of voice, data, images or other information including, but not limited to, cellular telephone service, personal communications service and paging service. A Telecommunications Facility can consist of one or more Antennas and Accessory Equipment or one base station.

“Telecommunication(s)” – The technology which enables information to be exchanged through the transmission of voice, video or data signals by means of electrical or electromagnetic systems.

“Tower(s)”- A lattice-type structure, guyed or freestanding, that supports one or more Antennas.

“Wireless Telecommunications Antenna(s)” – The physical device through which electromagnetic, wireless telecommunications signals authorized by the FCC are transmitted or received. Antennas used by amateur radio operators are excluded from this definition.

“Wireless Communications Equipment” - Means the set of equipment and network components used in the provision of Wireless Communications Services, including, but not limited to, Antennas, transmitters, receivers, base stations, equipment shelters, cabinets, emergency communication Support Structure.

“Wireless Telecommunications Equipment Shelter(s)” – The structure in which the electronic receiving and relay equipment for a Wireless Telecommunications Facility is housed. “Wireless Telecommunications Facility(ies)” – A Telecommunications Facility consisting of equipment and Support Structures involved in receiving telecommunications or radio signals from a mobile radio communications source and transmitting those signals to a central switching computer which connects the mobile unit with the land-based telephone lines.

“Wireless Communication Support Structure(s)”- Means a structure that is designed to support, or is capable of supporting, Wireless Communications Equipment, including a Monopole, self- supporting lattice tower, guyed tower, water tower, utility pole or building.

## **SECTION 26.04            GENERAL PROVISIONS**

The following requirements apply to all Wireless Telecommunications Facilities regardless of the zoning District or height category in which they are located. These General Provisions are to be supplemented with any specific requirements set forth in for Article III, Section 3.36, Article IV Sections 4.02 and 4.03, Article V Sections 5.02 and 5.03 and Article XIV Section 14.04 of the Ordinance.

- A. The location of new Wireless Telecommunications Facilities and Wireless Communications Equipment shall comply with all natural resource protection standards established by federal laws and regulations, state laws and regulations and the Township;
- B. Security fencing minimum eight feet in height shall surround the Wireless Telecommunications Facilities (Tower, Equipment Compound and any guy wires, either completely or individually) as determined by the Planning Commission;
- C. Existing vegetation (trees and shrubs) shall be preserved to the maximum extent possible;
- D. The Tower shall be painted a non-contrasting gray or similar color minimizing its visibility, unless otherwise required by the Federal Communications Commission (FCC) or Federal Aviation's Administration (FAA).
- E. No advertising is permitted anywhere at the Wireless Telecommunications Facility, except identifying signage;
- F. "No Trespassing" signs shall be posted around the Wireless Telecommunications Facility with a telephone number of who to contact in the event of an emergency;
- G. Applicants will provide evidence of legal access to the Wireless Telecommunications Facility thereby maintaining access regardless of other developments that may take place on the property;
- H. Any decision to deny a request to place, construct or modify an Antenna and/or Tower shall be in writing and supported by evidence contained in a written record of the proceedings of the Planning Commission; and
- I. Underground Wireless Telecommunications Equipment Shelters are encouraged, especially in nonindustrial districts, and may be requested by the Planning Commission.

**SECTION 26.05 GENERAL EXEMPTIONS**

The following are exempt from the requirements in Section 3.36, provided that they otherwise meet the requirements of the Ordinance: Citizen band radio facilities, short wave facilities, television reception antennas, satellite dishes, communication systems used primarily for a farm operation, and government facilities which are subject to state and federal laws or regulations that preempt municipal regulatory authority.

**SECTION 26.06 HEIGHT EXCEPTIONS**

Transmission antennas and towers which do not exceed one hundred (100) feet in height shall be exempt from height regulations in all districts. Wireless Communications Equipment and Wireless Communications Support Structures shall not exceed fifty (50) feet.

**SECTION 26.07            REQUIREMENTS FOR WIRELESS COMMUNICATION  
TOWERS AND ANTENNAS**

- A.     Wireless communication Towers and Antennas which do not exceed a height of fifty feet must satisfy the requirements of Section 3.35; and
- B.     Wireless communication Towers and Antennas exceeding a height of fifty feet as a use by right must satisfy the requirements of Section 3.36.

**SECTION 26.08            NON RESIDENTIAL DISTRICTS**

Wireless Telecommunications Facilities located in the Neighborhood Commercial District, FPR Forest Preservation and Recreation District, AP Amusement Park District, Open Space Planned Unit Development Districts shall be subject to the following conditions:

- A.     A Wireless Telecommunications Facility is permitted as a sole use on a lot subject to the following conditions:
  - 1.     The lot shall have a minimum lot size allowable for the district in question.
  - 2.     Minimum yard requirements:
    - i.     Tower: The minimum distance to any single-family or two-family residential use or district lot shall be three-hundred feet.
  - 3.     Maximum Height:
    - i.     Tower: Two-hundred feet (including Antenna)
    - ii.    Wireless Communications Equipment Shelter: Three-hundred square feet for a single Wireless Telecommunications Equipment Shelter, or, if there is more than one, seven-hundred-fifty total square feet.
  - 4.     Maximum size of Wireless Communications Equipment Shelter: Three-hundred square feet for a single shelter, or, if there is more than one, seven-hundred-fifty total square feet.
- B.     Combined with another use:
  - 1.     A Wireless Telecommunications Facility is permitted on a property with an existing use subject to the following conditions:
    - 1.     The existing use on the property may be any permitted use in the District or any lawful nonconforming use, and need not be affiliated with the wireless telecommunications provider. The Wireless Telecommunications Facility will not be considered an addition to the existing use or value of a nonconforming use;

2. The Wireless Telecommunications Facility shall be fully automated and unattended on a daily basis, and shall be visited only for periodic and necessary Ordinary Maintenance (except during construction or emergency);
3. The minimum lot area shall be the area needed to accommodate the Wireless Telecommunications Facility, tower (and guy wires, if used), the Wireless Telecommunications Equipment Shelter, and security fencing;
4. Minimum yard requirements:
  - a. Tower: The minimum distance to any single-family or two family residential use or district lot line shall be three-hundred feet; and
  - b. Wireless Telecommunications Equipment Shelter: Shall comply with the minimum setback requirements for the primary lot.
5. Access: The service access to the Wireless Telecommunications Equipment Shelter shall, whenever feasible, be provided along the circulation driveways of the existing use.
6. Maximum Height: Tower: Two-hundred feet (including Antenna)
7. Maximum size of Wireless Telecommunications Equipment Shelter: Shall not exceed three-hundred square feet for a single Wireless Telecommunications Equipment Shelter, or, if there is more than one, seven-hundred-fifty total square feet.

C. Combined with an Existing Structure:

Where possible an Antenna for a Wireless Telecommunications Facility shall be attached to an Existing Structure subject to the following conditions:

1. Maximum height: Twenty feet or twenty percent above the Existing Structure height, whichever is greater;
2. If the applicant proposes to locate the Wireless Communications Equipment in a separate Wireless Telecommunications Equipment Shelter (not located on, or attached to, the Existing Structure), the Wireless Telecommunications Equipment Shelter shall comply with the following:
  - a. The Antenna shall comply with the maximum or minimum setback requirements for the subject zoning District;
  - b. Service access to the Wireless Telecommunications Equipment Shelter shall not interfere with parking or vehicular circulation on the site for the principal use; and

- c. The maximum size of the Wireless Telecommunications Equipment Shelter shall not exceed three-hundred square feet, or, if there is more than one, seven-hundred-fifty total square feet.

## **SECTION 26.09 RESIDENTIAL DISTRICTS**

Wireless Telecommunication Facilities that include Towers are not permitted in the Medium Density Residential District, Medium High Density Residential District, High Density Residential District, Manufactured Home Park District, Inland Lakes District, Lake Michigan Shoreline District, or the Water Front Marine District, with the exception of placement on any property with an institutional use (e.g., church, park, library, municipal/government, hospital, school, utility etc.), that might be located in such districts. However, Antennas attached to Existing Structures are permitted. In applying for a permit in any Residential District, the applicant must present substantial evidence as to why it is not technically feasible to locate in a more appropriate nonresidential zone. Once those efforts have been exhausted, a Wireless Telecommunications Facility may be located in a Residential District subject to the following conditions:

- A. General: The Wireless Telecommunication Facility shall be fully automated and unattended on a daily basis, and shall be visited only for periodic and necessary (except during construction or emergency) Ordinary Maintenance. This shall apply to B, C, D, and E below.
- B. Combined with a nonresidential use: An Antenna may be attached to a nonresidential Existing Structure that is a permitted use in the District; including, but not limited to, a church, a municipal or governmental building or facility, agricultural building, and a building or structure owned by a utility. The following conditions shall be met:
  - 1. Maximum height: Twenty feet or twenty percent above the Existing Structure, whichever is greater;
  - 2. If the applicant proposes to locate the Wireless Communications Equipment in a separate Wireless Telecommunications Equipment Shelter, the Wireless Telecommunications Equipment Shelter shall comply with the following:
    - i. The Wireless Telecommunications Equipment Shelter shall comply with the minimum or maximum setback requirements for the subject zoning District;
    - ii. The maximum size of the Wireless Telecommunications Equipment Shelter shall not exceed three-hundred square feet, or, if there is more than one, seven-hundred-fifty total square feet; and
    - iii. Service access to the Wireless Telecommunications Equipment Shelter shall not interfere with the parking or vehicular circulation on the site for the principal use.

C. Located on a nonresidential-use-property where permitted:

A Tower to support an Antenna may be constructed on a property with a nonresidential use that is a permitted use with the District, including but not limited to a church, hospital, school, municipal, or government building, facility or structure, agricultural use and a utility use, subject to the following conditions:

1. The Tower shall be set back from the property line abutting a single-family or two family residential lot by three-hundred feet;
2. Maximum height:
  - i. Tower: Two-hundred feet (including Antenna)
  - ii. Wireless Telecommunications Equipment Shelter: (include the maximum building height for the District)
3. The maximum size of the Wireless Telecommunications Equipment Shelter shall not exceed three-hundred square feet, or, if there is more than one, seven-hundred-fifty total square feet;
4. Service access to the Tower and Wireless Telecommunications Equipment Shelter shall, whenever feasible, be provided along the circulation driveways of the existing use; and
5. In order to locate a Wireless Telecommunications Facility on a property that is vacant or with an agricultural use the tract shall be at least two and one half acres.

D. Located on a residential building:

An Antenna for a Wireless Telecommunications Facility may be attached to an Existing Structure such as a mid-rise or high-rise apartment building subject to the following conditions:

1. Maximum height: Twenty feet above the Existing Structure;
2. If the applicant proposes to located the Wireless Communications Equipment in a separate Wireless Telecommunications Equipment Shelter, the Wireless Telecommunications Equipment Shelter shall comply with the following:
  - i. The Wireless Telecommunications Equipment Shelter shall comply with the minimum setback requirements for the subject zoning District;

- ii. The maximum size of the Wireless Telecommunications Equipment Shelter shall not exceed three-hundred square feet, or, if there is more than one, seven-hundred-fifty total square feet; and
- iii. Service access to the Wireless Telecommunications Equipment Shelter shall not interfere with the parking or vehicular circulation on the property for the principal use.

E. Located in Open Space:

A Wireless Telecommunications Facility is permitted on land that has been established as permanent open space, or a park subject to the following conditions:

- 1. The Tower shall be set back from the property line abutting a single-family or two family residential lot by three-hundred feet;
- 2. Maximum height:  
  
Tower: 200 feet (includes antenna)  
Equipment Shelter shall not exceed the maximum building height allowed within the applicable district.
- 3. The maximum size of the Wireless Telecommunications Equipment Shelter shall not exceed three-hundred square feet, or, if there is more than one, seven-hundred-fifty total square feet;
- 4. The open space shall be owned by the municipality, county, or state government, a homeowners association, charitable organization, or a private, non-profit conservation organization;
- 5. The Tower shall be set back from any single-family or two-family property line three-hundred feet.

**SECTION 26.10 DISTRICT'S PERMITTED**

A. RURAL RESIDENTIAL DISTRICT

- 1. Land and/or buildings in the RR District may be used for the following purposes as Uses Permitted by Right:
  - i. Wireless communication Towers and Antennas which do not exceed a height of fifty feet as regulated by Section 3.35 of this Ordinance; and
  - ii. Existing wireless communication Towers and Antennas exceeding a height of fifty feet as regulated by Section 3.36 of this Ordinance.



2. Wireless Communications Equipment and Wireless Communications Support Structures, exceeding fifty feet in height may be used following review by the Planning Commission as a Special Land Use as regulated by Section 14.04.

**B. LOW DENSITY RESIDENTIAL DISTRICT**

1. Land and/or buildings in the LDR District may be used for the following purposes as Permitted by Right: Uses

i. Wireless communication Towers and Antennas which do not exceed a height of fifty feet as regulated by Section 3.35 of this Ordinance; and

ii. Existing wireless communication Towers and Antennas exceeding a height of fifty feet as regulated by Section 3.36 of this Ordinance.

2. Wireless Communications Equipment and Wireless Communications Support Structures, exceeding fifty feet in height may be used following review by the Planning Commission as a Special Land Use as regulated by Section 14.04.

**SECTION 26.11 SPECIAL LAND USES**

A Wireless Telecommunications Facility which includes a Tower may be permitted as a special use in a multi-family residential, institutional or commercial district, or located on an institutionally-used property in any residential district. In order to be considered for review, the applicant must prove that a newly-constructed Tower is necessary in that opportunities for collocation on an existing Tower are not feasible. The applicant must follow the steps outlined in Section 14.04 EE to be considered for review in this category.

## **ARTICLE XXVII FLOODPLAIN MANAGEMENT ORDINANCE**

### **SECTION 27.01 STATEMENT OF PURPOSE**

The provisions of this Article are to designate an enforcing agency to discharge the responsibility of Fruitland Township Muskegon County, Michigan ("Fruitland Township") and to designate regulated flood hazard areas under the provisions of the State Construction Code Act, Act No. 230 of the Public Acts of 1972, as amended and to provide for the Township's participation in the Federal Emergency Management Agency's National Flood Insurance Program, as constituted in accord with the National Flood Insurance Act of 1968, as amended, by complying with the program's applicable statutory and regulatory requirements for the purposes of significantly reducing flood hazards to persons, reducing property damage, reducing public expenditures, and providing for the availability of flood insurance and federal funds or loans within the Township.

- A. It is the purpose of this Article to significantly reduce hazards to persons and damage to property as a result of flood conditions in Fruitland Township, and to comply with the provisions and requirements of the National Flood Insurance Program, in accordance with the National Flood Insurance Act of 1968, and subsequent enactments and the rules and regulations promulgated in furtherance of this program by the Federal Emergency Management Agency.
- B. Further, the objectives of this Article include:
  - 1. The protection of human life, health and property from the dangerous and damaging effects of flood conditions;
  - 2. The minimization of public expenditures for flood control projects, rescue and relief efforts in the aftermath of flooding, repair of flood damaged public facilities and utilities, and the redevelopment of flood damaged homes, neighborhoods, commercial and industrial areas;
  - 3. The prevention of private and public economic loss and social disruption as a result of flood conditions;
  - 4. The maintenance of stable development patterns not subject to the blighting influence of flood damage;
  - 5. Ensuring that the public has access to information indicating the location of land areas subject to periodic flooding; and
  - 6. Preserving the ability of floodplains to carry and discharge a base flood.

### **SECTION 27.02 AGENCY DESIGNATED**

Pursuant to the provisions of the state construction code, in accordance with Section 8b(6) of Act 230, of the Public Acts of 1972, as amended, the Building Official of Fruitland Township is hereby designated as the enforcing agency to discharge the responsibility of the Fruitland Township under Act 230, of the Public Acts of 1972, as amended, State of Michigan. Fruitland Township assumes responsibility for the administration and enforcement of said Act throughout its corporate limits.

**SECTION 27.03            CODE APPENDIX ENFORCED**

Pursuant to the provisions of the state construction code, in accordance with Section 8b(6) of Act 230, of the Public Acts of 1972, as amended, Appendix G of the Michigan Building Code shall be enforced by the Fruitland Township Building Official.

**SECTION 27.04            DELINEATION OF THE FLOOD HAZARD AREA ZONE**

- A.     The provisions of this chapter shall apply to all areas of special flood hazards within the jurisdiction of the Township.
  
- B.     The areas of special flood hazard identified by the Federal Emergency Management Agency Flood Insurance Study entitled "Muskegon County, Michigan (All Jurisdictions)" dated October 7, 2021, with an accompanying flood insurance rate map, panel number(s) 26121CINDOB, 26121C0018E, 26121C0019E, 26121C0038E, 26121C0106E, 26121C0107E, 26121C0108E, 26121C0109E, 26121C0117E, 26121C0130E, and 26121C0136E, effective October 7, 2021 and 26121C0039D, 26121C0141D effective July 6, 2015 are adopted by reference and made a part of this Article as if fully set forth herein for the purposes of administration of the Michigan Building Code, and declared to provide the contents of the "flood hazards" section of Table R301.2(1) of the Michigan Residential Code. The flood hazard area zone shall overlay existing zoning districts delineated on the official Fruitland Township Zoning Map. The boundaries of the flood hazard area shall coincide with the boundaries in the Flood Insurance Study entitled "Muskegon County, Michigan (All Jurisdictions)" dated October 7, 2021, with the accompanying map panels referenced above all of which are adopted by reference, appended and declared to be a part of this Ordinance and available for review upon request at the Fruitland Township Clerk's office. The term flood hazard area as used in this Ordinance shall mean the flood hazard area zone.
  
- C.     Where there are disputes as to the location of a flood hazard area boundary, the Zoning Board of Appeals shall resolve the dispute in accord with Section 19.03 of the Fruitland Township Zoning Ordinance.
  
- D.     In addition to other requirements of this Ordinance applicable to development in the underlying zoning district, compliance with the requirements of this Article shall be necessary for all development occurring within the flood hazard area. Conflicts between the requirements of this Article and other requirements of this Ordinance or any other ordinance shall be resolved in favor of this Article, except where the conflicting requirement is more stringent and would further the objectives of this Article to a greater extent than the requirements of this Article. In such cases, the more stringent requirement shall be applied.

**SECTION 27.05            DEVELOPMENT PERMIT**

- A.     Development, meaning any man-made change including the erection of structures, additions to existing buildings, installation of septic systems, placement of manufactured homes, filling or grading within a flood hazard area shall not occur except upon issuance of a zoning compliance permit in accord with the requirements of Section 20.06 of the Fruitland Township Zoning Ordinance and the following standards:

1. The requirements of this Article shall be met;
2. The requirements of the underlying zoning district and applicable general provisions of this Ordinance must be met; and
3. All necessary development permits shall have been issued by appropriate federal, state and local authorities including a floodplain permit, approval, or letter of no authority from the Natural Resources and Environmental Protection Act (NREPA), 1994 PA 451. Where a development permit cannot be obtained prior to the issuance of a zoning compliance permit, a letter from the issuing agency indicating intent to issue contingent only upon proof of zoning compliance shall be acceptable.

**SECTION 27.06 GENERAL STANDARDS FOR FLOOD HAZARD REDUCTION**

- A. All new construction and substantial improvements within a flood hazard area, including the placement of prefabricated buildings and manufactured homes, shall:
  1. Be designed and anchored to prevent flotation, collapse or lateral movement of the structure;
  2. Be constructed with materials and utility equipment resistant to flood damage; and
  3. Be constructed by methods and practices that minimize flood damage.
- B. All new and replacement water supply systems shall minimize or eliminate infiltration of flood waters into the systems.
- C. All new and replacement sanitary sewage systems shall minimize or eliminate infiltration of flood waters into the systems and discharges from systems into flood waters. On-site waste disposal systems shall be located to avoid impairment to the system or contamination from the system during flooding.
- D. All public utilities and facilities shall be designed, constructed, and located to minimize or eliminate flood damage.
- E. Adequate drainage shall be provided to reduce exposure to flood hazards.
- F. Compliance with the standards of this Section shall be certified by a registered professional engineer or architect.
- G. Land shall not be divided in a manner creating parcels or lots which cannot be used in conformance with the requirements of this Article.
- H. The flood carrying capacity of any altered or relocated watercourse not subject to federal or state regulations designed to ensure flood carrying capacity shall be maintained.
- I. Available flood hazard data from federal or state governments or other sources shall be reasonably utilized in meeting the standards of this Section. Data furnished by the Federal Insurance Administration shall take precedence over data from other sources.

**SECTION 27.07            SPECIFIC BASE FLOOD ELEVATION STANDARDS**

- A.     On the basis of the most recent available base flood elevation data the following standards shall apply in the flood hazard area:
  - 1.     All new construction, substantial improvements and additions of residential structures shall have the lowest floor, including basement, elevated to a minimum of 1 foot above the base flood level.
- B.     The most recent base flood elevation data received from the Federal Insurance Administration shall take precedence over data from other sources.

**SECTION 27.08            MANUFACTURED HOME STANDARDS**

- A.     All manufactured homes and additions shall be elevated a minimum of 1 foot above the base flood level and anchored to resist flotation, collapse or lateral movement by providing over-the-top and frame ties in accord with the following specifications:
  - 1.     Over-the-top ties shall be provided at each of the four corners of the manufactured homes, with two additional ties per side at intermediate locations, except on manufactured homes less than fifty feet in length, one tie per side shall be required;
  - 2.     Frame ties shall be provided at each corner of the home with five additional ties per side at intermediate points, except on manufactured homes less than fifty feet in length, four ties per side shall be required;
  - 3.     All components of the anchoring system shall be capable of carrying a force of 4,800 pounds; and
  - 4.     All additions to a manufactured home shall be similarly anchored.
- B.     An evacuation plan indicating alternative vehicular access and escape routes shall be filed with Muskegon County Emergency Services\_for manufactured home parks and manufactured home subdivisions.
- C.     Manufactured homes within zones A1-A30 on the Flood Insurance Rate Map shall be located in accord with the following standards:
  - 1.     All manufactured homes shall be placed on stands or lots which are elevated on compacted fill or on pilings so that the lowest floor of the manufactured home will be 1 foot above the base flood level;
  - 2.     Adequate surface drainage away from all structures and access for a manufactured home hauler shall be provided;
  - 3.     In the instance of elevation on pilings, lots shall be large enough to permit steps; piling foundations shall be placed in stable soil no more than ten feet apart; and reinforcement shall be provided for piers more than six feet above ground level; and

4. In manufactured home parks and manufactured home subdivisions which exist at the time this subsection is adopted, where repair, reconstruction or improvement of streets, utilities, and pads equals or exceeds fifty percent of the value of the streets, utilities and pads before the repair, the standards in subparagraphs a, b, and c of this subsection shall be complied with.

**SECTION 27.09           DISCLAIMER OF LIABILITY**

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

**SECTION 27.10           REPEALS**

All ordinances inconsistent with the provisions of this ordinance are hereby repealed.

**SECTION 27.11           PUBLICATION**

This ordinance shall be effective 7 days after legal publication.

ADOPTED: MAY 18, 2015  
PUBLISHED: JUNE 28, 2015  
EFFECTIVE: JULY 6, 2015

AMENDED: SEPTEMBER 30, 2021  
PUBLISHED: OCTOBER 10, 2021  
EFFECTIVE: OCTOBER 17, 2021