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OPEN SPACE PRESERVATION

SECTION 4.15 OPEN SPACE PRESERVATION

(a) Purpose: The purpose of this Section is to adopt "open space preservation" provisions consistent with Section 16(h) of the Zoning Act which requires qualifying townships to permit lands satisfying specified criteria to be developed, at the option of the landowner, with the same number of dwellings on a portion of the land specified in the zoning ordinance, but not more than 50 percent, that could otherwise be developed. under existing regulations, on the entire land area.

(b) Qualifying conditions: Land may be developed under the provisions of this Section only if each of the following conditions are satisfied:

(1) The land shall be zoned in the R-1, R-2, R-4 or R6 Zoning Districts;

(2) The zoning district in which the land is located shall permit development at a density equivalent to two or fewer dwelling units per acre if the land is not served by a public sewer system, or three or fewer dwelling units per acre if the land is served by a public sanitary sewer system;

(3) The development of land under this Section shall not depend upon the extension of a public sanitary sewer or a public water supply system to the land, unless the development of the land without the exercise of the clustering option provided by this Section would also depend on such extension;

(4) At least 50 percent of the land proposed for development shall remain in a perpetually undeveloped state (i.e., "open space"); and

(5) The open space preservation option shall not have previously been exercised with respect to the same land.

(c) Permitted uses: Only dwelling units and non-dwelling unit structures (as described in Section 4.15[11(101) permitted by the zoning district in which the land is located shall be permitted on land developed pursuant to the provisions of this Section.

(d) Application: The application and review procedures for land proposed to be developed pursuant to this Section shall be those stated in Article VI of this Ordinance, governing site plan review, except as otherwise provided in this Section. In addition to the application materials required by Section 6.3 of this Ordinance, an application for the development of land under the provisions of this Section shall include the following:

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(1) Parallel Plan Application Requirements: A Parallel Plan prepared for the purpose of demonstrating the number of dwelling units that could otherwise be developed on the land under its existing zoning if the open space preservation option were not exercised. The Parallel Plan may be conceptual in nature but shall include at least the following information:

- (i) Dates drawn and revised, north arrow and scale, which shall be the same as that utilized for the site development plan illustrating the proposed open space preservation development.
- (ii) Location of street rights-of-way and all easements.
- (iii) Location of all lots, illustrating lot area and width to demonstrate compliance with the minimum requirements of the applicable zoning district.
- (iv) Required building setback lines on all lots to demonstrate the availability of sufficient buildable land to make the lot usable.
- (v) Location of all utilities that would be necessary to serve a development under the Parallel Plan and which would not be located within any public road right-of-way or private street easement, or on buildable lots. Such utilities include, but are not limited to, storm water retention or detention basins, community sewage treatment systems and community water supply facilities.
- (vi) The topography of the land, at five foot contours, including identifying the location of all portions of the land that are unbuildable for residential purposes due to the presence of wetlands, slopes in excess of 25 percent, flood plains, or other features prohibiting development for residential purposes.

(2) Open Space Plan Application Requirements: The site development plan for the open space preservation development shall include the following minimum information, in addition to that required by Section 6.3 of this Ordinance:

- (i) The portion(s) of the land proposed to remain in a perpetually undeveloped state and the portions of the land to be used for clustered development.
- (ii) Total number of acres of land proposed to remain in a perpetually undeveloped state, the total number of acres of land proposed to be used for clustered development, and the area contained within rights-of-way or easements for streets. The percentage of each, as compared to the total site acreage, shall be indicated.
- (iii) Lots and proposed building envelopes, showing the lot area, width, and yard setbacks for each lot. The number of lots on the site development plan shall not exceed the number of lots that could otherwise be developed as shown on the Parallel Plan, as approved by the Planning Commission, and reduced to accommodate non-dwelling structures, if necessary, as provided in Section 4.15(0)(11).

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(iv) Location and type of all proposed non-dwelling unit structures and improvements, including but not limited to all proposed public street rights of way and private road easements.

(v) Location of all septic tanks and drain fields. The applicant shall submit proof that the proposed septic tank and drain field location for each lot has been approved by the Muskegon County Health Department.

(3) A copy of the conservation easement, plat dedication, restrictive covenants, or other legal instrument that would run with the land, used to perpetually preserve the open space in an undeveloped state. Such legal instrument shall be reviewed by the township attorney, and shall be subject to the approval of the Township Board, consistent with the terms of this Section, prior to recording the legal instrument with the Muskegon County Register of Deeds. The legal instrument shall:

(i) Indicate the permitted use(s) of the undeveloped open space.

(ii) Require that the open space be perpetually preserved in an undeveloped state, without buildings, structures or other improvements, except such drainage improvements, underground utility lines, riding trails, hiking trails, picnic areas, park or playground equipment, agricultural structures or similar improvements that may be approved by the Planning Commission.

(iii) Require that the open space be maintained by parties who have an ownership interest in the property.

(iv) Provide standards for scheduled maintenance of the open space, including necessary pruning and harvesting of trees and new plantings.

(4) If the development is to be served by public streets, written proof that the Muskegon County Road Commission has approved the design, layout and construction of the proposed public streets.

(c) Review Procedure:

¶ When reviewing an application submitted under the terms of this Section, the Planning Commission shall determine whether the Parallel Plan accurately reflects the number of dwelling units that could otherwise be developed on the land under its existing zoning. If the Planning Commission determines that the number of dwellings illustrated on the Parallel Plan exceeds the number of dwellings that could be permitted on the land if it were developed under its existing zoning, the applicant shall submit a revised site development plan for the open space preservation development reflecting the permitted number of dwellings, as determined by the Planning Commission.

(2) If a site development plan for an open space preservation development satisfies all applicable requirements of Section 6.3 and Section 6.4 of this Ordinance, all requirements of this Section 4.15 and all conditions of approval imposed by the Planning Commission pursuant to Section 6.5, the Planning Commission shall approve the site development plan. The Planning Commission may require performance guarantees, in accordance with Section 6.7.

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(f) **Development requirements:**

(1) **Required Open Space.** At least 50 percent of the land proposed for development under the provisions of this Section shall remain in a perpetually undeveloped state (i.e., "open space"), as provided in Section 3.37(d)(3). The following areas shall not be considered as open space:

- (i) All areas within all public street rights-of-way.
- (ii) All areas within all private road easements.
- (iii) Any casement for overhead utility lines, unless adjacent to open space.
- (iv) The area within a platted lot or site condominium unit.
- (v) Off street parking areas.
- (vi) Detention and retention ponds.
- (vii) Community drain fields.
- (viii) Areas devoted to community water supply or sanitary sewer treatment systems.
- (ix) Marinas.
- (x) Club houses and swimming pools.
- (xi) Golf courses.

(2) **Standards for Open Space.** The following standards shall apply to the open space required pursuant to this Section:

- (i) The open space may include a recreational trail, picnic area, children's play area, greenway, linear park, natural area, agricultural use or other use which, as determined by the Planning Commission, is substantially similar to these uses.
- (ii) The open space shall be available for all residents of the development, subject to reasonable rules and regulations and shall be reasonably usable by such residents for passive recreation such as hiking and picnicking. The open space may be, but is not required to be, dedicated to the use of the public.
- (iii) Open space shall be located so as to be reasonably accessible to the residents of the development. Safe and convenient pedestrian access points to the open space from the interior of the development shall be provided.
- (iv) A portion of the open space shall be located along the perimeter street frontage abutting the land. The depth of this area shall be at least 50 feet, not including public right-of-way, and this area shall be left in its natural condition or be landscaped to help to preserve or enhance the existing views.
- (v) Open space shall be located so as to preserve significant natural resources, natural features, scenic or wooded conditions, bodies of water, wetlands or agricultural land.
- (vi) 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.

- (3) **Use of Open Space.** All dwelling units and other structures and improvements shall be located outside that portion of the land designated as open space. However, the Planning Commission, in its discretion, may permit structures or other improvements to be located in the open space if such improvements would be consistent with the designated purpose of the open space. By way of example only, park or playground equipment could be permitted on open space designated for recreational use, or agricultural structures could be permitted on open space designated for agricultural use. However, club houses, swimming pools, golf courses, marinas, and similar recreational amenities shall not be permitted within the designated open space.
- (4) **Underlying Zoning District.** The development of land under this Section shall comply with all requirements of this Ordinance, applicable to the zoning district in which the land is located, except those setback and lot area requirements that must be adjusted to allow • the open space preservation option permitted herein.
- (5) **Uniform Lot Size.** Lots shall be as uniform in area as is reasonably practicable, unless otherwise approved by the Planning Commission.
- (6) **Building Envelopes.** The location and area of building envelopes, as - proposed by the applicant, shall be subject to the review and approval of the Planning Commission. The location and area of building envelopes shall be established to achieve the intent and purpose of the zoning district in which the land is located.
- (7) **Required Frontage.** Each lot shall have a minimum of 50 feet of frontage measured at the public street right of way or private road casement line, provided that lots located on a cut de sac portion of a public street or private road must have a minimum of 30 feet of frontage. An dwelling lots shall be accessed from an interior street within the development and shall meet the minimum frontage requirement on such interior street. Private roads may be permitted in an open space preservation development if approved by the Planning Commission.
- (8) **Lot Width.** Each lot shall have a minimum width equal to no less than one-half (1/2) the minimum lot width specified for the zoning district in which the land is located.
- (9) **Maximum Number of Lots.** The clustered portion of the development shall contain no more than the maximum number of lots that could otherwise be developed, as determined from the Parallel Plan approved by the Planning Commission, and as reduced to reflect the inclusion of non-dwelling unit structures, if any, as described in Section 3.37(f)(11).
- (10) **Non-Dwelling Unit Structures.** Lots containing non-dwelling structures such as a clubhouse and its related amenities, shall be subject to all requirements of this Section applicable to lots containing dwellings and shall further be subject to all other requirements of this Ordinance and other Township ordinances applicable to the type of structure proposed.
- (11) **Reduction in Lots for Non-Dwelling Structures.** If structures other than dwellings, such as a clubhouse, are constructed on a lot in the clustered portion of the land, the number of dwelling lots permitted to be developed shall be reduced as follows:
- (i) The area occupied by non-dwelling structures shall be divided by the average area of dwelling lots that could be situated in the clustered development if the non-dwelling structures were not included, based on the approved Parallel Plan. If this number is a fraction, it shall be rounded up to the nearest whole number.
 - (ii) The number calculated under subsection (i) shall be subtracted from the number of dwelling lots that could be permitted in the clustered development, as determined from the approved Parallel Plan.

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(12) **Perimeter Lots.** Notwithstanding any other provision of this Section, the Planning Commission may require that the open space preservation development be designed and constructed with lot sizes and setbacks on the perimeter that will be reasonably consistent with the lot sizes and setbacks of adjacent uses (planned or existing).

(13) **Grading.** Grading within the development shall comply with the following requirements:

(i) To preserve the natural appearance of the land, all graded areas, cuts and fills shall be kept to a minimum. Specific requirements may be placed on the area of land to be graded or to be used for building, and on the size, height, and angles of cut-and-fill slopes and the shape thereof. Retaining walls may be required.

(ii) All areas indicated as open space on the approved development plan shall be undisturbed by grading, excavating, structures or otherwise, except as permitted by the Planning Commission. Drainage improvements, utility lines, riding trails, hiking trails, picnic areas, and similar recreational improvements and amenities may be placed in open space areas if approved by the Planning Commission.

(iii) Grading within the clustered development shall be planned and carried out so as to avoid erosion, pollution, flooding or other adverse effects upon the land, and so as to have only such minimal effect upon the environmental characteristics of the land as may be reasonably feasible.

(14) **Private Roads.** Private roads within a open space preservation development shall conform to the private road requirements of this Ordinance.

(15) **Other Laws.** The development of land under this Section is subject to all other applicable Township ordinances, state and federal laws, rules and regulations, including, but not limited to, rules relating to suitability of groundwater for on-site water supply for land not served by a public water system, and rules relating to the suitability of soils for on-site sewage disposal for land not served by public sanitary sewers.

(g) Amendments to an Approved Site Plan:

(1) An approved open space preservation development plan and any conditions imposed upon its approval shall not be changed except upon the mutual consent of the Planning Commission and the applicant, except as otherwise stated below with respect to a minor change. The applicant shall follow the procedures set forth in Section 6.6 pertaining to the modification of an approved site plan.

(2) Minor changes to an approved open space preservation development plan shall be permitted by the Township Zoning Administrator only under the following circumstances.

(i) Landscaping approved in the final development plan that is replaced by similar landscaping to an equal or greater extent;

(ii) Internal rearrangement of a Parking Lot which does not affect the number of parking spaces or alter access locations or design;

(iii) Changes required by the Township, Muskegon County, or other State or Federal regulatory agencies in order to conform to other laws or regulations.

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(h) Time Limitation on Development:

(1) Each development permitted pursuant to this Section shall be under construction within one year after the date of approval of the open space preservation plan by the Planning Commission. If this requirement is not met, the Planning Commission may, in its discretion, grant no more than one extension not exceeding one year, provided that the applicant submits reasonable evidence to the effect that unforeseen difficulties or special circumstances have been encountered, causing delay in the commencement of the clustered development. •

(2) If the clustered development has not been commenced within the above-stated time period, or within any authorized extension thereof, any building permits issued for the development or any part thereof shall be of no further effect. The applicant shall then be required to seek renewed approval from the Planning Commission under the terms of this Section in order to exercise the clustering option."

Section 2. Amendment of Section 6.2. The Fruitport Township Zoning Ordinance is amended by revising Section 6.2 to state in its entirety as follows.

“SECTION 6.2 APPROVAL REQUIRED

Site plan review is required as follows:

- a. For those uses requiring Special Use Permit review, as specified.
- b. All land uses , excepting single family detached dwelling and two-family dwelling.
- c. Open space preservation developments, as provided in Section 4.15”

Ord No. 728 effective 1/1/2003

ARTICLE I. IN GENERAL

Sec. 42-1. Purpose.

Pursuant to the authority conferred by the Public Acts of the State of Michigan, this chapter has been established for the purpose of:

- (1) Promoting and protecting the public health, safety, peace, morals, comfort, convenience, and general welfare of the inhabitants of the Township of Fruitport.
- (2) Protecting the character and stability of the open space, residential and commercial areas within the Township of Fruitport and promoting the orderly and beneficial development of such areas.
- (3) Providing adequate light, air, privacy, and reasonable access to property.
- (4) Regulating the intensity of use of land and lot areas and determining the area of open spaces surrounding buildings and structures necessary to provide adequate light and air to protect the public health.
- (5) Lessening and avoiding congestion on the public highways and streets.
- (6) Promoting healthful surroundings for family life in residential areas.
- (7) Protecting the public and adjacent uses from fire, explosion, noxious fumes or odors, excessive heat, dust, smoke, glare, noise, vibration, radioactivity, and other health and safety hazards.
- (8) Preventing the overcrowding of land and undue concentration of buildings and structures so far as possible and appropriate in each zoning district by regulating the use and bulk of buildings in relation to the land surrounding them.
- (9) Enhancing the social and economic stability in the township.
- (10) Conserving property values and natural resources.
- (11) Conserving the expenditure of funds for public improvements, energy and other services to conform with the most advantageous uses of land, all in accordance with the township land use plan.

(Ord. No. 578, § 1.2, eff. 5-2-1983)

Sec. 42-2. Scope.

Where this chapter imposes greater restrictions than those imposed by other laws or ordinances or by private restrictions placed upon property by covenant, deed or other private agreements, the provisions of this chapter shall prevail.

(Ord. No. 578, § 1.3, eff. 5-2-1983)

Sec. 42-3. Definitions.

For the purpose of this chapter, certain terms are herewith defined. When not inconsistent with the context, words used in the present tense include the future, words used in the

singular number include the plural, and words in the plural number include the singular; the word "person" may be taken for association, co-partnership or corporation; the word "structure" includes occupied; the word "used" includes designed or intended to be used; and the word "shall" is always mandatory and not merely directive. Other words and terms shall have the following respective meanings:

Accessory building means a detached subordinate structure on the same lot with a principal building.

Accessory use means a use naturally and normally incidental and subordinate to the main use of the premises.

Agriculture means any land or building used for pasturage, floriculture, dairying, horticulture, viticulture, and livestock or poultry husbandry.

Alteration means a change in the supporting members of a building, an addition, a diminution, a change in use or the removal of a building from one location to another.

Apartment means a building containing three or more dwelling units arranged either side by side or one above the other.

Automobile means a self-propelled passenger vehicle or a truck not exceeding a rated capacity of one ton.

Automotive repair shop means a garage, building, or area where welding, painting, engine overhauling, body part replacement or similar repairs are made upon motorized vehicles, boats, trailers, towed equipment, farm equipment, construction equipment or mobile homes.

Automotive sales area means a parcel of land used for the outdoor display, sale or rental of new or used motorized vehicles, boats, trailers, towed equipment, farm equipment, construction equipment or mobile homes in operable condition where no repair or maintenance work is done.

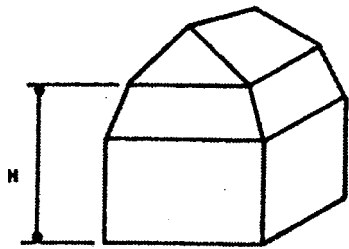
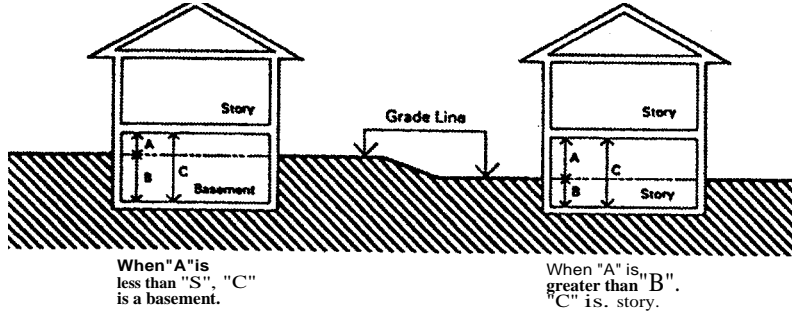
Automotive service station and filling station mean a place where motor fuel lubricating oil, grease or services necessary for operating and maintaining operable motor vehicles is offered for sale to the motoring public, provided such services are made directly into or upon motor vehicles on the premises. Services may include the sale of customary accessories, motor tune-up and the replacement or adjustment of minor parts.

Basement means that portion of a building which is partly or wholly below grade, but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A basement shall not be counted as a story.

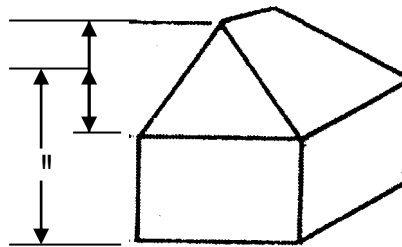
Board means the board of appeals.

Boarder and roomer mean a person who is provided with lodging by the family occupying a dwelling unit.

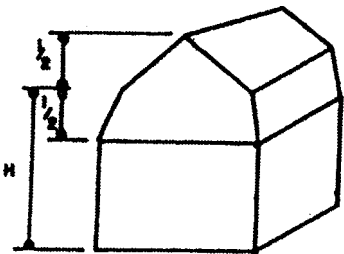
Building height means the vertical distance measured from the established grade to the highest point of the roof surface for flat roofs; to the deck line of mansard roofs and to the average height between eaves and ridge for gable, hip and gambrel roofs. Where a building is located on sloping terrain, the height may be measured from the average ground level of the grade at the building wall. (See illustration.)



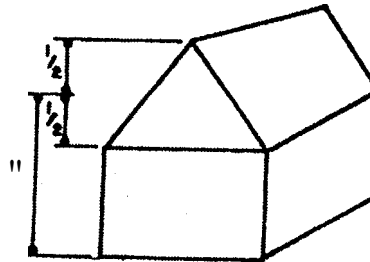
MANSARD ROOF



HIP ROOF



GAMBREL ROOF
H- HEIGHT OF BUILDING



GABLE ROOF

BUILDING HEIGHT

Carport means a partially open structure, intended to shelter one or more vehicles. Such structures shall comply with all yard requirements applicable to private garages.

Certificate of zoning compliance means a certificate issued by the zoning administrator to a party or parties intending to initiate any work or change any use of property in the township.

Common ownership means ownership by two or more persons of two or more parcels of adjoining land either jointly, as tenants in common, or as owners or partial owners who are associated through business, family relation, co-partnership, agreement or similar ties.

District means an area of land for which there are uniform regulations governing the use of buildings and premises, density of development, yard requirements and height regulations.

Dwelling (or residence) means a building or portion thereof designed or used exclusively as the residence or sleeping place of one or more persons or families, but not including hotels, motels, tourist cabins, boardinghouses and/or roominghouses, or basement dwellings.

A building, mobile home, premanufactured or precut dwelling structure designed and used for the complete living accommodations of a single-family complying to the following standards:

- (1) Having a minimum living area of 860 square feet for a one- or two-bedroom dwelling, three bedrooms or more 1,040 square feet of living area and with a minimum floor to ceiling height of 7.5 feet;
- (2) A dwelling must have a depth of not less than 24 feet;
- (3) Firmly attached to a solid foundation constructed on the site having a pitched roof and otherwise be in accordance with the township building code and having the same perimeter dimensions as the dwelling, which attached shall also meet all building codes or other applicable state regulations. In the case of a mobile home, the mobile home shall be secured to the premises by an anchoring system or device compatible with those required by the Michigan Mobile Home Commission pursuant to regulations promulgated under Act No. 419 of the Public Acts of 1976, as amended.* All construction required herein shall be commenced only after a building permit has been obtained in accordance with the township building code;
- (4) No exposed wheels, towing mechanisms, undercarriage, or chassis shall be permitted. Any space that may exist between the foundation and the ground floor of the dwelling shall be fully enclosed by an extension of the foundation wall along the perimeter of the dwelling;
- (5) The dwelling shall be connected to a public sewer and water supply or to such private facilities approved by the local health department;
- (6) The dwelling must contain steps connected to exterior door areas or to porches connected to the door areas where a difference in elevation requires the same;
- (7) The dwelling must contain no additions of rooms or other areas which are not constructed with an appropriate foundation and permanent attachment to the principal structure;

***Editor's note**-Act No. 419 of the Public Acts of Michigan of 1976 was repealed by Act No. 96 of the Public Acts of Michigan of 1987. For current provisions see MCL 125.2301 et seq.

- (8) The dwelling, except mobile home, complies with all pertinent building and fire codes including, in the case of mobile homes, the standards for mobile home construction as contained in the United States Department of Housing and Urban Development (HUD) regulations entitled "Mobile Home Construction and Safety Standards," effective June 15, 1976, as amended. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction, those standards or regulations shall apply and supersede any such standards or regulations imposed by the township building code;
- (9) The dwelling is aesthetically compatible in design and appearance with other residences in the vicinity, with either a roof overhang of not less than six inches on all sides, or alternating with window sills and roof drainage systems concentrating roof drainage along the sides of the dwelling; with not less than two exterior doors with one being in the front of the dwelling and the other being in either the rear or side of the dwelling, contains firmly attached steps connected to the exterior door areas or to porches connected to the door areas where a difference of design and appearance shall be determined in the first instance by the township building inspector upon review of the plans submitted for a particular dwelling subject to appeal by an aggrieved party to the township planning commission within a period of 15 days from the receipt of notice of the building inspector's decision. Any determination of compatibility shall be based upon the standards set forth within the definition of "dwelling" as well as the character of residential development outside of mobile home parks within 2,000 feet of the subject dwelling where such area is developed with dwellings to the extent of not less than 20 percent of the area; or where the area is not so developed, by the character of residential development outside of mobile home parks throughout the township. The foregoing shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour, or relief from the common or standard designed home;
- (10) Prior to locating a dwelling as herein defined on the property, application for a building permit, including plot plan and construction plans shall be provided to the building inspector;
- (11) The foregoing standards shall not apply to a mobile home located in a licensed mobile home park except to the extent required by state law or otherwise specifically required in division 6 of this chapter pertaining to such parks;
- (12) The definition of "dwelling or residence" shall also include the energy-saving earth shelter home either constructed with a completely earth-covered roof having a structural roof system with a slope of not less than one-half inch of rise per foot of run or constructed with a roof which is not completely earth-covered having a slope with at least a five-inch rise for each 12 inches of run, and, in either case, containing at least one exposed vertical exterior elevation not less than 7 1/2 feet in height by 24 feet in width designed and constructed in accordance with standard building code regulations pertinent thereto and without any accommodations for any dwelling units above ground.

Dwelling multiple-family, means a building used or designed as a residence for three or more families living independently of each other.

Dwelling, single-family, means a detached building designed for or occupied exclusively by one family.

Dwelling, two-family, means a detached building, designed for or occupied by two families living independently of each other.

Dwelling unit means one or more rooms designed for or occupied by not more than one family and one roomer or boarder.

Erected means built, constructed, reconstructed, moved upon, or any physical operation on the premises required for building. Excavation fill, drainage, and the like, shall be considered a part of erection.

Essential services means equipment, structure and accessories for the provision or maintenance of public utilities including gas, electrical, steam, communication, water supply or disposal systems necessary for furnishing utility service for public health, safety, or general welfare.

Family means a head of a household, his or her spouse, children or legal wards living together in a dwelling as a single housekeeping unit or up to three adult individuals living together as a single housekeeping unit.

Floor area means the area of all floors computed from the outside dimensions of the exterior walls of a building excluding porches, patios, terraces, breezeways, carports, verandas, garages, unfinished attics and basement areas as herein defined.

Garage, commercial, means a structure or portion, thereof, other than a private garage, used for the storage of trucks, automobiles, pleasure vehicles, trailers, or other equipment on wheels or treads.

Garage, private, means a detached accessory building or portion of a main building used only for the storage of automobiles, pleasure vehicles, trailer or household effects of the occupants of the premises and not more than one automobile not so owned.

Governing body means the township board of the Township of Fruitport.

Home occupation means an accessory use of a dwelling unit for gainful employment involving the manufacture, provision or sale of goods and/or services. (See section 42-179.)

Hotel and motel mean a building in which lodging is provided to the transient public where such lodging accommodation does not have individual cooking facilities of any kind.

Institutional or public use means churches, schools teaching academic subjects, hospitals, convalescent or nursing homes, child care centers, parks, playgrounds and other public recreational areas; other government buildings and facilities, excluding dumps and junk yards.

Junkyard means an area used for the collection, storage, dismantling, dumping, display, resale, exchange, baling, cleaning or handling of second hand salvaged or used waste

materials, machinery, vehicles, trailers, equipment or furnishings not excluding automotive sales areas, uses carried on in a completely enclosed building and uses screened from view of the public and adjoining properties.

Kennel means any premises on which three or more dogs, cats or other small animals over four months of age are kept.

Loading space means a space at least 30 feet in length and 12 feet in width designated for the parking, loading or unloading of a truck or bus in an off-street loading area.

Lot means a parcel of land in single ownership, exclusive of any adjoining street, separated from other parcels by legal description, by a subdivision of record or by survey map.

Mobile home means a structure, transportable in one or more sections, which is built on a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure. Mobile home does not include a recreational vehicle.

Modular housing unit means a dwelling unit constructed solely within a factory, as a single unit, or in various sized modules or components, which are then transported by truck or other means to a site where they are assembled on a permanent foundation to form a dwelling unit, and meeting all codes and regulations applicable to conventional single-family home construction.

Nonconforming building (nonconforming structure) means a building or structure (or portion thereof) lawfully existing at the time of adoption of this chapter or a subsequent amendment thereto, that does not conform to the provisions of this chapter relative to height, bulk, area, placement or yards for the zoning district in which it is located.

Nonconforming use means a use which lawfully occupied a structure or land at the time of adoption of this chapter, or any amendment thereto, and which does not conform with the use regulations of the district in which it is located.

Occupied means the use of any structure, parcel or property for human endeavor, but not including the preparation of any structure or land for occupancy.

Off-street loading area means an open area, other than a street or other public way, used for the parking, loading or unloading of trucks, semi-trailers, buses or similar vehicles of a rated capacity of more than one ton.

Parking area means an area used for the parking of automobiles for a fee or as an accommodation for clients, customers, residents, employees or the general public.

Parking space means a space at least 20 feet in length and nine feet in width designated for the parking of automobiles in a parking area.

Planned unit development means development of one or more tracts of land in which a comprehensive, unified plan for development of the land is prepared, subject to the approval of the township, which permits flexibility in the location, size and number of buildings, mixing

of a variety of land uses and departure from conventional zoning ordinance requirements and standards. Planned unit development is characterized by defined and coordinated vehicular and pedestrian circulation systems, unified landscaping and buffering improvements, a coordinated signage program and other functional and visual elements which result in an overall unified coordinated physical development.

Planned unit residential development means a tract of land on which two or more principal residential buildings, developed under single ownership or management, the development which is unique and may contain a mix of housing types. Such development shall be based on an approved site plan which allows flexibility of design not available under normal zoning district requirements.

Planning commission means the township planning commission of the Township of Fruitport.

Principal use means the primary or predominant use of the premises.

Recreational vehicle means a vehicle primarily designed and used as temporary living quarters for recreational, camping, travel purposes, including a vehicle having its own motor power or a vehicle mounted on or drawn by another vehicle.

Sign means any words, letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade name or trade marks by which anything is made known and which are used to advertise or promote an individual, firm, association, corporation, profession, business, commodity or product and which is visible to the general public from any public street or highway for more than ten days.

Signboard and billboard mean any structure or portion thereof on which letters, figures or pictorial matter is displayed for advertising purposes not related to the premises or the nature of the business conducted thereon or the products primarily sold or manufactured thereon. This definition shall not be held to include any sign used for official notices issued by a court or public office.

Single ownership means ownership by one person or by two or more persons jointly, as tenants by the entirety, or as tenants in common, of a separate parcel of real property not adjacent to land in the same ownership.

Site plan means 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 chapter.

Soil means topsoil, sub-soil, sand, gravel, rock, stone, heavy aggregate, earth or any other material proposed to be removed from or dumped on land.

Special use permit means a permit issued by the township board, zoning administrator or planning commission to a person or persons intending to undertake the operation of an activity upon land or within a structure and for those special uses mentioned in this chapter which possess unique characteristics and are found to be not injurious to the health, safety, convenience, and general welfare of the township's inhabitants. (See article IV of this chapter.)

Street means a public right-of-way of 66 feet or more in width which has been dedicated for the purpose of providing access to abutting private lots or land. All streets shall be constructed and paved in accordance with current Muskegon County Road Commission standard specifications for plat street construction.

Structure means anything constructed or erected which requires permanent location on the ground or attachment to something having such location. The term "building" shall mean the same. The following shall not be deemed a structure: youth recreation equipment, signs of a type permitted for dwellings in the residential districts, outdoor laundry accessories, pet housing, fences or walls of 36 inches in height or less, campers, trailers or other mobile recreation facilities, pools not defined as a swimming pool, flagpoles, lamp posts, mail boxes or vent piping.

Swimming pool means a constructed basin or structure for the holding of water for swimming and aquatic recreation. Swimming pool does not include plastic, canvas or rubber portable pools temporarily erected upon the ground holding less than 12 inches of water.

Variance means a modification of the literal provisions of this chapter granted when strict enforcement of this chapter would cause undue hardship owing to circumstances unique to the individual property on which the variance is granted.

Yard means an open space which is unoccupied except for certain structures as herein specified by this chapter.

- (1) **Front yard.** A yard extending across the full width of a lot and lying between the front street property line and the nearest foundation or wall of any roofed part of a building on the lot.
- (2) **Rear yard.** A yard extending across the full width of a lot between the rear lot line and the nearest foundation or wall of any roofed part of a building on a lot.
- (3) **Side yard.** A yard extending from the front yard to the rear yard lying between a side lot line and the nearest step, foundation or wall of any part of a building on the lot.
- (4) **Side street side yard.** A side yard on a corner lot which abuts the side street right-of-way.

(Ord. No. 578, § 2.1, eff. 5-2-1983; Ord. No. 638, eff. 5-2-1992; Ord. No. 641, eff. 8-6-1993)

Cross reference-Definitions generally, § 1-2.

Sec. 42-4. Schedule of fees.

The township board shall establish a schedule of fees, charges and expenses for permits, certificates, appeals hearings, special meeting and other documents and actions required by the provisions of this chapter. This schedule shall be available at the township office. No permit, certificate or variance shall be issued unless such fees, charges or expenses have been paid in full, nor shall any action be taken on proceedings before the board of appeals unless or until fees, charges and expenses have been paid in full.

(Ord. No. 578, § 22.1, eff. 5-2-1983)

Cross reference-Fees and charges, ch. 14.

Sec. 42-5. Municipal civil infraction.

(a) Any person who shall violate any provision of this chapter or fail to comply with any of the requirements thereof or who shall erect, alter, enlarge or move any building or who shall put into use any lot in violation of any detailed statement or plan submitted hereunder, or who shall refuse reasonable opportunity for inspections necessary to carry out the terms of this chapter, shall be responsible for a municipal civil infraction, subject to payment of a civil fine as set forth in section 2-183. Repeat offenses under this chapter shall be subject to increased fines as set forth in section 2-183. The continued violation of any provision of this chapter shall be deemed to constitute a separate offense each and every day such violation shall continue. In addition, the township may exercise any other legal remedies provided by law.

(b) The owner of any building or land where anything in violation of this chapter shall be placed or shall exist, and any architect, builder, contractor, agent, person or corporation employed in connection therewith and who assists in the commission of such violation, shall each be responsible for a separate violation and shall each be liable to the fine specified in section 2-183.

(Ord. No. 578, § 19.4, eff. 5-2-1983; Ord. No. 716, § 1,8-27-2001)

Secs. 42-6-42-30. Reserved.

ARTICLE II. ADMINISTRATION*

DIVISION 1. GENERALLY

Sec. 42-31. Building permits and plans.

No structure as defined by this chapter or part thereof, shall be erected, moved, enlarged or altered until a certificate of zoning compliance and a building permit have been granted by the zoning administrator. Application shall be filed by the owner or his agent and it shall state the intended use of the structure and of the land. The application shall be accompanied by building plans and specifications, a site development plan and such other information as may maybe necessary to provide for the enforcement of this chapter.

(1) Plans shall be drawn to scale and shall show dimensions in figures. Building and site development plans shall be signed by the person preparing them and by the owner of the property or building involved. A fee as set by the township shall accompany any plans or applications to defray the costs of administration and inspections.

(2) No certificate of zoning compliance or building permit shall be issued unless the plans and intended use conform in all respects to the provisions of this chapter. A copy of all approved building permits shall be sent to the assessor.

***Cross reference--Administration, ch. 2.**

(3) No certificate of zoning compliance or building permit shall be issued if the lot involved has been created in violation of state or township subdivision regulations.

(Ord. No. 578, § 19.1, eff. 5-2-1983)

Cross reference—Buildings and building regulations, ch. 6.

Sec. 42-32. Duties of the building inspector.

This chapter shall be enforced by the building inspector, who shall in no case issue any certificate of zoning compliance or building permit nor grant any occupancy permit where the proposed building, alteration or use would be in violation of any provisions of this chapter except under written order of the board of zoning appeals, the planning commission, the township board or a court of competent jurisdiction.

(1) *Violations.* The building inspector shall investigate any alleged violations of this chapter coming to his attention. If a violation is found to exist, he shall serve notice upon the owner to cease such violation as provided by law. If the owner fails to act diligently to correct said violation 14 days after notification, the building inspector shall serve notice upon the owner, notify the township board and prosecute a complaint to terminate said violation before a court of proper jurisdiction.

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- (2) *Inspections.* The building inspector shall first determine if he can issue a certificate of zoning compliance and then inspect all new construction or alterations at the time footings are placed and at the completion of the construction or alterations authorized. He shall make such additional inspections as he deems necessary to ensure compliance with the provisions of this chapter. The building inspector shall make periodic inspections of the township to ascertain that all the requirements of this chapter are being complied with.
- (3) *Records.* The building inspector shall keep records of all inspections, applications and permits issued, with a notation of all special conditions involved. He shall file and safely keep copies of all plans and of all fees submitted with applications. The same shall form a part of the records of his office and shall be available to the township board and all other officials of the township.

(Ord. No. 578, § 19.2, eff. 5-2-1983)

Sec. 42-33. Certificate of occupancy.

In all districts no land shall be used and no building hereafter erected or altered shall be occupied or used for any purpose until a certificate of occupancy shall have been issued by the building inspector stating that the premises or building complies with the provisions of approved plans and all ordinances of the township. Where any special use conditions are applicable, the conditions shall be stated on the certificate of occupancy. A record of all certificates of occupancy shall be kept on file in the office of the building inspector. Where a building permit is not involved a fee of \$2.00 shall be charged for each certificate. A copy shall be sent to the clerk and assessor.

(Ord. No. 578, § 19.3, eff. 5-2-1983)

Sec. 42-34. Sewer and well permits.

No building permit shall be issued for any building to be occupied by human beings wherein water is to be supplied or liquid wastes of any kind are to be disposed of unless the building is either served by a public sewer and public water system or has been issued a sewer permit and/or a well permit in lieu of one or both of the unprovided public utilities. No sewer permit or well permit shall be issued unless the county health department and the building inspector has approved plans showing the location of any existing or proposed buildings, walls, septic tanks, drain fields or deep wells and, for private disposal systems, the location of soil test borings together with soil test percolation data. Before issuing a sewer or well permit, the county health department and the building inspector shall determine that the proposed plans and submitted data meet state, county and township standards, that they do not pose a health or sanitation hazard and that the following provisions are complied with:

- (1) As covered under county code.
- (2) There shall be a lot area of at least 15,000 square feet for any sewer for a dwelling, business or industrial building, unless a larger lot area is required by district regulations.
- (3) For a seasonal dwelling there shall be a lot area of at least 9,000 square feet for a sewer permit unless a larger area is required by district regulations.

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- (4) The county health department or the building inspector may impose such additional requirements for the location of buildings, wells, septic tanks or drain fields necessary to ensure the health of intended occupants of the premises and to protect adjacent properties. Any county regulation to the contrary notwithstanding, test borings and soil percolation data shall be provided in any area intended for drainage fields of *sewage* disposal systems.

(Ord. No. 578, § 4.2(24), eff. 5-2-1983)

Cross reference—Utilities, ch. 34.

Sec. 42-35. Temporary permit.

The building inspector may issue temporary use permit for the following uses after determining that such uses will not be detrimental to adjacent conforming uses during the permitted period of use. A second temporary use permit may be issued by the building inspector at the end of such time limit for good cause shown. The building inspector may attach such conditions and requirements deemed necessary to meet the intent of the provisions of this chapter. A third temporary use permit may only be authorized by the planning commission:

- (1) *Signs and supplies.* The storage of building supplies and machinery, temporary storage buildings, the assembly of materials and customary trade, contractor, architect and identification signs in connection with a construction project may be authorized by the building inspector for a period of up to 12 months.
- (2) *Migrant homes.* A temporary use permit may be issued for up to four months for the temporary occupancy of trailer homes or licensed migratory housing for migrant farm workers on farms of 20 acres or more in area, provided the provisions of section 42-34 above are complied with.(Ord. No. 578, § 4.2(28), eff. 5-2-1983)

Sec. 42-36. Subdivision plats.

The planning commission shall review all plats to ascertain their compliance with this chapter and any others pertaining to land development.

(Ord. No. 578, 4.2(27), eff. 5-2-1983)

Sec. 42-37. Unclassified uses.

Where a proposed use of land or use of building is not contemplated or specified by this chapter or where the building inspector has a question as to the appropriateness of a use which, although basically permitted, involves other features which were not contemplated or specified by this chapter, the building inspector shall request a determination by the planning commission. The commission shall rule on such proposed use, deciding whether it falls within the intent of this chapter or violates the intent thereof. If the commission determines that the use falls within the intent of this chapter but is of such a nature as to require special consideration as to location, setback, area, screening, operation or other features necessary to protect the value and use of adjoining conforming uses, it shall stipulate such necessary requirements prior to authorizing a building permit.

(Ord. No. 578, § 4.2(30), eff. 5-2-1983)

Secs. 42-38-42-55. Reserved.

DIVISION 2. BOARD OF APPEALS

Sec. 42-56. Creation and membership.

- (a) The township board of appeals shall be created consisting of a member of the planning commission, and four members selected from the electors within the township. One member shall be a member of the township board. Terms, compensation, vacancies, and removal shall be made under the statute applicable.
- (b) Members of the township board of appeals shall be removable by the township board for misfeasance, malfeasance or nonfeasance in office upon written charges and after public hearing.
- (c) A member shall be disqualified from a vote in which the member has a conflict of interest. Failure of a member to abstain from a vote in which the member has a conflict of interest shall constitute malfeasance in office.

Section 2. Standards for Variances. Chapter 42, Zoning, Article II, Administration, Division 2, Board of Appeals, Section 42-62 of the Fruitport Charter Township Code of Ordinances is added to read in its entirety as follows.

Ord 760 effective date 12/1/2006

Sec. 42-57. Meetings.

Meetings of the board of appeals shall be held at the call of the chairman and at such times as the board in its rules of procedure may specify. There shall be a fixed place of meeting and all meetings shall be open to the public. The board shall maintain a record of its proceedings which shall be filed in the office of the township clerk and shall be a public record.

(Ord. No. 578, § 20.2, eff. 5-2-1983)

Sec. 42-58. Duties.

The board of appeals shall act upon all questions as they may arise in the administration of this chapter, and may fix rules and regulations to govern its procedures sitting as such a board of appeals. It shall hear and decide appeals from and review any order, requirements, decision or determination made by an administrative official charged with the enforcement of this chapter. It shall also hear and decide all matters referred to it by this chapter including the interpretation of the zoning map. The concurring vote of a majority of the members of the board of appeals shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant any matter upon which they are required to pass under this chapter or to effect any variation in this chapter. The grounds for every such determination shall be stated.

(Ord. No. 578, § 20.3, eff. 5-2-1983)

Sec. 42-59. Appeal.

An appeal may be taken by any person aggrieved or by any officer, department, board or bureau of the township, county or state. Such appeal shall be taken within such time as shall be prescribed by the board of appeals by general rule, by filing with the officer from whom the appeal is taken and with the board of appeals, a notice of appeal specifying the ground for the appeal. The officer from whom the appeal is taken shall forthwith transmit to the board of appeals all the papers constituting the record upon which the action appealed from was taken. (Ord. No. 578, § 20.4, eff. 5-2-1983)

Sec. 42-60. Restraining order.

An appeal stays all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the board of appeals, after the notice of appeal has been filed with him, that by 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 circuit court, on application, on notice to the officer from whom the appeal is taken and on due cause shown. (Ord. No. 578, § 20.5, eff. 5-2-1983)

Sec. 42-61. Jurisdiction.

The board of appeals shall fix a reasonable time for the hearing of an appeal and give due notice thereof to the interested parties, and decide the same within a reasonable time. Any party may appear at the hearing in person or by agent or attorney. The board of appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as in its opinion ought to be made in the premises, and to that end shall have all the power of the officer from whom the appeal was taken and may issue or direct the issuance of a permit. *Where* there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of this chapter, the board of appeals shall have power in passing upon appeals to vary or modify in any of its rules, regulations or provisions so that the spirit of this chapter shall be observed, public safety secured and substantial justice done.

(Ord. No. 578, § 20.6, eff. 5-2-1983)

Secs. 42-64-42-80. Reserved.**Sec. 42-62. Standards for variances.**

The board of appeals may grant a non-use variance or a use variance from the provisions or requirements of this chapter, only if the board of appeals finds from reasonable evidence that all of the applicable facts and conditions exist.

- (a) For a non-use variance, the board of appeals must find that all of the following facts and conditions exist.
- (1) There are exceptional or extraordinary circumstances or conditions applying to the property in question, as to its intended use, that do not apply generally to other properties or classes of uses in the same zone.
 - (2) The variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties or classes of uses in the same zone. The possibility of increased financial return shall not of itself be deemed sufficient to warrant the granting of a variance.

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- (3) The variance, if granted, will not be of substantial detriment to adjacent property and will not materially impair the intent and purpose of this chapter or the public interest.
 - (4) The condition or situation of the property or its intended use is not of so general or recurrent a nature as to make reasonably practicable a general regulation for the condition or situation.
 - (5) Any exceptional or extraordinary circumstances applying to the property in question are not self-created.
- (b) For a use variance, two-thirds of the members of the board of appeals must find that all of the following facts and conditions exist.
- (1) There are exceptional or extraordinary circumstances or conditions applying to the property in question, as to its intended use, that do not apply generally to other properties or classes of uses in the same zone.
 - (2) The variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties or classes of uses in the same zone. The possibility of increased financial return shall not of itself be deemed sufficient to warrant the granting of a variance.
 - (3) The variance, if granted, will not be of substantial detriment to adjacent property and will not materially impair the intent and purpose of this chapter or the public interest.
 - (4) The condition or situation of the property or its intended use is not of so general or recurrent a nature as to make reasonably practicable a general regulation for such condition or situation.
 - (5) Any exceptional or extraordinary circumstances applying to the property in question are not self-created.
 - (6) The property in question cannot be reasonably used as zoned and therefore a use variance is necessary.

Section 3. Alternate Members. Chapter 42, Zoning, Article II, Administration, Division 2, Board of Appeals, Section 42-63 of the Fruitport Charter Township Code of Ordinances is added to read in its entirety as follows. Ord 760 effective date 12/1/2006

Sec. 42-63. Alternate members.

The township board may appoint not more than two alternate members for the same term as regular members to the board of appeals. An alternate member may be called as specified to serve as a member of the board of appeals in the absence of a regular member if the regular member will be unable to attend one or more meetings. An alternate member may also be called to serve as a member for the purpose of reaching a decision on a case in which the member has abstained for reasons of conflict of interest. The alternate member appointed shall serve in the case until a final decision is made. The alternate member has the same voting rights as a regular member of the board of appeals.

Section 4. Public Hearing. Chapter 42, Zoning, Article II, Administration, Division 3, Amendment Procedures, Section 42-85 of the Fruitport Charter Township Code of Ordinances is amended to read in its entirety as follows. Ord 760 effective date 12/1/2006

DIVISION 3. AMENDMENT PROCEDURES***Sec. 42-81. Amendments.**

The regulations, restrictions and boundaries of the districts set forth in this chapter may be amended, supplemented or repealed in accordance with the provisions of this division.
(Ord. No. 578, § 21.1, eff. 5-2-1983)

Sec. 42-82. Initiation.

Amendments may be initiated by the township board, planning commission or by petition of any elector or property owner within the township.
(Ord. No. 578, § 21.2, eff. 5-2-1983)

Sec. 42-83. Referral to planning commission.

Amendments shall be referred to the commission for study and report and may not be acted upon by the township board until it has received the recommendation of the planning commission on the proposed amendment, or until 60 days have elapsed from the date of reference of the amendment without a report being prepared by the planning commission. Upon receipt of the report and recommendation of the planning commission, the township board by majority vote, may adopt in whole or in part, deny or take any other action on the proposed amendment as it may deem advisable. Changes and amendments hereunder shall become effective immediately after passage by the township board.

(Ord. No. 578, § 21.3, eff. 5-2-1983)

Sec. 42-84. Publication.

Amendments shall be filed with the township clerk, and one notice of the amendment shall be published in a newspaper of general circulation in the township within 15 days after adoption. Such notice shall provide either a summary of the regulatory effect, or the text of the amendment.

(Ord. No. 578, § 21.4, eff. 5-2-1983)

***State law** reference—Amendments and supplements to zoning ordinance, MCL 125.284.

Sec. 42-85. Hearing.

- (a) No amendment shall be adopted until a public hearing has been held thereon by the planning commission.
- (b) The public hearing required by this chapter shall be noticed as required by law.
- (c) No action shall be taken on any application for an applicant other than the planning commission or the township board until the applicant shall have paid an appropriate filing fee as established by the provisions of section 42-4.

Section 5. Special Use Public Hearings. Chapter 42, Zoning, Article IV, Special Uses, Division 1, Generally, Section 42-153 of the Fruitport Charter Township Code of Ordinances is amended to read in its entirety as follows. Ord 760 effective date 12/1/2006

Secs. **42-86-42-120. Reserved.**

ARTICLE III. NONCONFORMING USES AND BUILDINGS**Sec. 42-121. Continuance of nonconforming use or structure.**

Where the districts established by this chapter, and amendments thereto; and where structures, uses or lots of record would be prohibited under the provisions of this chapter; such structures, uses, or lots of record may be continued subject to the provisions described below. Structures or uses which are nonconforming by reason of height and area, parking and off-street loading provisions only, may be extended, enlarged, altered, remodeled or modernized, provided that no additional encroachment of the height and area provisions are occasioned thereby.

(Ord. No. 578, § 18.1, eff. 5-2-1983)

Sec. 42-122. Nonconforming use discontinued.

Where a nonconforming use has ceased for more than one year it shall not again be devoted to a nonconforming use except as provided in section 42-123. Where a nonconforming use has been changed to a permitted use it shall not again be devoted to a nonconforming use.

(Ord. No. 578, § 18.2, eff. 5-2-1983)

Sec. 42-123. Change of use.

The use of a nonconforming building may be changed to another nonconforming use if the planning commission finds that such new use would markedly decrease the degree of nonconformance and would enhance the desirability of adjacent conforming uses. This shall not be construed to permit the conversion of a nonconforming use to a prior nonconforming use nor to waive the other provisions of this article.

(Ord. No. 578, § 18.3, eff. 5-2-1983)

Sec. 42-124. Restoration and repairs.

Such repairs and maintenance work as are required to keep a nonconforming building or structure in a modern or sound condition may be made. A nonconforming building or structure which is damaged or destroyed by fire, flood, wind or other calamity may be restored and the occupancy or use of such building or structure, or part thereof, as it existed at the time of such destruction may be continued or resumed provided that such restoration is started within a period of one year of the time of such damage and diligently prosecuted to completion.

(Ord. No. 578, § 18.4, eff. 5-2-1983)

Sec. 42-125. Extensions, enlargements, moving.

No nonconforming use of any land or structure shall hereafter be enlarged or extended. No nonconforming building or structure shall be moved in whole or in part to another location unless such structure or use conforms to all the regulations of this chapter.

(Ord. No. 578, § 18.5, eff. 5-2-1983)

Sec. 42-126. Unlawful use not authorized.

Nothing in this chapter shall be interpreted as authorization for or approval of the continuance of the use of a structure or premises in violation of the zoning regulations in effect at the time of the effective date of the ordinance from which this chapter is derived.

(Ord. No. 578, § 18.6, eff. 5-2-1983)

Sec. 42-127. Plans already filed.

In any case where plans and specifications for a building or structure have been filed which would conform with zoning regulations effective at the date of such filing but not with the regulations of this chapter, and where a building permit for such a building or structure has been issued and construction work started at the effective date of the ordinance from which this chapter is derived, such work may proceed provided it is diligently pursued.
(Ord. No. 578, § 18.7, eff. 5-2-1983)

Sec. 42-128. Elimination of nonconforming uses by acquisition.

In accordance with Act No. 184 of the Public Acts of 1943 as amended, (MCL 125.271 et seq.) the township board may, from time to time, acquire properties on which nonconforming uses or structures are located by condemnation or otherwise, and may remove such uses or structures and resell the property for a conforming use or develop it for a public use. The net cost of such acquisition may be assessed against a benefit district, or may be paid from other sources of revenue.
(Ord. No. 578, § 18.8, eff. 5-2-1983)

Sec. 42-129. Nonconforming due to reclassification.

The foregoing provisions of this article shall also apply to buildings, structures, land or uses which hereafter become nonconforming due to any reclassification of districts under this chapter or any subsequent change in the regulations of this chapter.
(Ord. No. 578, § 18.9, eff. 5-2-1983)

Sec. 42-130. Nonconforming uses eliminated.

Notwithstanding the provisions of sections 42-121 and 42-128, junkyards as defined in section 42-3 shall be discontinued or so altered as to not constitute a junkyard within three years from the date of notification by certified mail by the building inspector. All nonconforming signs shall be permitted to continue until such times as the sign structure, sign background or sign support is replaced, changed or strengthened. At such time the nonconforming sign shall be changed to a conforming sign or removed.
(Ord. No. 578, § 18.10, eff. 5-2-1983)

Secs. 42-131-42-150. Reserved.

ARTICLE IV: SPECIAL USES*

DIVISION 1. GENERALLY

Sec. 42-151. Purpose.

(a) Until recent years, the regulation of all uses of land and structures through zoning has been accomplished by assigning each use to one or more use districts. However, the functions and characteristics of an increasing number of new kinds of land uses combined with conclusive experience regarding some of the older, familiar kinds of uses call for a more flexible and equitable procedure for properly accommodating these activities in the township. It should be recognized that the forces that influence decisions regarding the nature, magnitude, and location of such types of land use activities are many and varied depending upon functional characteristics, competitive situations and the availability of land. Rather than assign all uses to special, individual, and limited zoning districts, it is important to provide controllable and reasonable flexibility in requirements for certain kinds of uses that will allow practicable latitude for the investor, but that will, at the same time, maintain adequate provision for the security of the health, safety, convenience and general welfare of the township's inhabitants.

***State law reference**-Special land uses, MCL 125.286b.

(b) In order to accomplish such a dual objective, provision is made in this chapter for a more detailed consideration of each specified activity as it may relate to proposed conditions of location, design, size, operation, intensity of use, generation of traffic and traffic movements, concentration of population, processes and equipment employed, amount and kind of public facilities and services required, together with many other possible factors. Land and structure uses possessing these particularly unique characteristics are designated as special uses and may be authorized by the issuance of a special use permit with such conditions and safeguards attached as may be deemed necessary for the protection of the public welfare. The sections in this article, together with references in other articles, designate what uses require a special use permit. With any exception noted, the procedures for obtaining such a permit apply to all special uses indicated. (Ord. No. 578, § 5.01, eff. 5-2-1983)

Sec. 42-152. Procedures for making application.

(a) *Applicant.* Any person owning or having an interest in the subject property may file an application for one or more special use permits provided for in this chapter in the zoning district in which the land is situated.

(b) *Application.* Application shall be submitted through the township clerk's office to the planning commission on a special form for that purpose; each application shall be accompanied by the payment of a fee in accordance with the duly adopted schedule of fees to cover costs of processing the application. No part of any fee shall be refundable.

(c) *Data required in application.* Every application shall be accompanied by the following information and data:

- (1) Special form supplied by the township clerk's office filled out in full by the applicant.
- (2) Site plan, plot plan, or development plan, drawn to a readable scale, of the total property involved showing the location of all abutting streets, the location of all existing and proposed structures, the types of buildings and their uses.
- (3) Preliminary plans and outline specifications of the proposed development.
- (4) A statement with supporting evidence regarding the required findings specified in section 42-154.

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- (5) The planning commission may require site plans, maps, soil and hydrographic studies, engineering or architectural drawings and plans, photographs, legal surveys, and in cases of larger projects, environmental impact statements, but the planning commission is not limited hereby, and may require such other documents and information as may be appropriate or germane to its review.

(Ord. No. 578, § 5.02, eff. 5-2-1983)

Sec. 42-153. Review and findings; planning commission public hearing.

The planning commission shall review the application at its next regular meeting following filing and shall set a date for public hearing within 45 days thereafter. The planning commission shall give notice for the hearing in the manner required by law. -

Section 6. Soil Removal and Mining. Chapter 42, Zoning, Article IV, Special Uses,

Division 2, Specific Standards, Section 42-180(d)(2) of the Fruitport Charter Township Code of Ordinances is amended to read in its entirety as follows.

- (2) *Notice of hearing on application.* Notice of hearing on such application shall be given by the township clerk in the manner required by law. Ord 760 12/1/2006

Sec. 42-154. Approval of special land use and site plan.

(a) Upon conclusion of the public hearing or at any subsequent regularly scheduled meeting the planning commission, zoning administrator and/or the township board shall issue or deny the special land use permit.

(b) Final approval powers of site plans and special use permits will be invested to the township board, planning commission and zoning administrator and will depend upon the nature, intensity and impact of the development. Each special use will identify the special official or body responsible for approval/denial.

(Ord. No. 578, § 5.04, eff. 5-2-1983)

Sec. 42-155. Issuance of special use permit.

The township board, planning commission or zoning administrator may approve an application for a special use permit. The zoning administrator shall be authorized to issue a special use permit, subject to site plan approval and other conditions as have been placed on the special use permit.

(Ord. No. 578, § 5.05, eff. 5-2-1983)

Sec. 42-156. Denial.

If that the township board, planning commission or zoning administrator denies an application for a special use permit, the factual basis and reasons for the denial shall be set forth in written findings of fact. Such findings shall be adopted contemporaneous with the action of the denial.

(Ord. No. 578, § 5.06, eff. 5-2-1983)

Sec. 42-157. General standards for making determinations.

The township board, planning commission or zoning administrator shall review the particular facts and circumstances of each proposal in terms of the following standards and shall find adequate evidence showing that the proposed use:

- (1) Will be harmonious with and in accordance with the general objectives or with any specific objectives of the general plan of current adoption;
- (2) Will 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 same area;
- (3) Will not be hazardous or disturbing to existing or future uses;
- (4) Will be a substantial improvement to property in the immediate vicinity and to the township as a whole;
- (4) Will be served adequately by essential public facilities and services; such as highways, streets, police and fire protection, drainage structures, refuse disposal, or schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such service;
- (5) Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the township;
- (6) Will not involve uses, activities, processes, materials, and equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors;
- (7) Will be consistent with the intent and purposes of this chapter. (Ord. No. 578, § 5.07, eff. 5-2-1983)

Sec. 42-158. Conditions and safeguard.

(a) Prior to granting any special use permit the township board, planning commission or zoning administrator may recommend any additional conditions or limitations upon the establishment, location, construction, maintenance or operation of the use authorized by the special use permit as in their judgment may be necessary for the protection of the public interest. Conditions imposed shall further be designed to protect natural resources, the health, safety and welfare, as well as the social and economic well being of those who utilize the land use or activity and the township as a whole; and be consistent with the general standards as established in this chapter and therefore be necessary to meet the intent and purpose of the regulations contained herein.

(b) Conditions and requirements stated as part of special use permit authorization shall be a continuing obligation of special use permit holders. The zoning administrator shall make periodic investigations of developments authorized by special use permit to determine compliance with all requirements.

(c) Special, use permits may be issued for time periods as determined by the township board, planning commission, or zoning administrator. Special use permits may be renewed in the same manner as originally applied for.

(d) In authorizing a special use permit, the township board, planning commission or zoning administrator may require that a bond, or other financial guarantee acceptable to the township, of ample sum be furnished by the developer to ensure compliance with such requirements as drives, walks, utilities, parking, landscaping and the like. The financial guarantee shall be deposited with the township clerk at the time of issuance of the permit authorizing the use or activity. As work progresses, the planning commission may recommend to the township board that a proportional rebate be made of the financial guarantee upon completion of significant phases or improvements.

(e.) Continuance of a special use permit by the planning commission shall be withheld only upon a determination by the zoning administrator to the effect that:

- (1) Such conditions as may have been prescribed in conjunction with the issuance of the original permit included the requirement that the use be discontinued after a specified time period.
- (2) Violations of conditions pertaining to the granting of the permit continue to exist more than 30 days after an order to correct has been issued.

(f) All plans, specifications, and statements submitted with the application for a special use permit shall become, with any changes ordered by the township board, planning commission, or zoning administrator a part of the conditions of any special use permit issued thereto.

(g) No application for a special use permit which had been denied wholly or in part by the township board, planning commission or zoning administrator shall be resubmitted until the expiration of one year or more from the date of such denial, except on grounds of newly discovered evidence or proof of changed conditions found to be sufficient to justify consideration by the township board.

(h) All special use permits which are issued with site and performance requirements attached to the land and/or structures shall be duly attached to the deed by recording same with the Muskegon County Register of Deeds.

(i) The general standards in this division are basic to all special uses; and the specific requirements accompanying the sections in division 2 relating to particular uses are in addition to and shall be required in all applicable situations.

(Ord. No. 578, § 5.08, eff. 5-2-1983)

Secs. 42-159-42-175. Reserved.

DIVISION 2. SPECIFIC STANDARDS

Sec. 42-176. Nonresidential structures and uses in residential districts.

(a) *Uses requiring special use permits.* The following uses of land and structures are permitted in one or more residential districts:

- (1) *Religious institutions:* churches, convents, parsonages and other housing for religious personnel.
- (2) *Educational and social institutions:* public or private elementary and secondary schools, institutions for higher education; auditoriums and other places for assembly and centers for social activities; public libraries, museums and art galleries; nursery schools and day care centers.
- (3) *Recreational facilities:* public and private parks, playgrounds, community centers, parkways, golf courses and similar recreational facilities.
- (4) *Public buildings and public service installations:* municipal administrative or public service buildings; utilities and public service facilities and uses, but excluding storage yards; telephone exchange buildings, transformer stations and substations.
- (5) *Institutions for human care:* hospitals, clinics, sanitariums, nursing or convalescent homes, homes for the aged, and philanthropic and charitable institutions.

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General standards. Inasmuch as the nonresidential uses permitted in residential districts may have an adverse effect on residential properties if not properly located and designed, the following general standards must be met prior to the development of such uses:

- (1) Hazardous areas must be adequately fenced to avoid accidents; such areas include public utility substations.
- (2) Any permitted nonresidential structure should preferably be located at the edge of a residential district, abutting a commercial/industrial district, or a public open space.
- (3) All permitted nonresidential uses shall front on a major street (minor arterial or collector).
- (4) Motor vehicle entrance and exit shall be *made* on a major street to avoid the impact of traffic generated by the nonresidential use upon the residential area.
- (5) Site locations should be chosen which offer natural or manmade barriers that would lessen the effect of the intrusion of a nonresidential use into a residential area.
- (6) Nonresidential uses should not be located so as to cause costly public improvements.

(c) *Specific standards.*

- (1) *Public utility structures and substations.* No building shall be erected to a height greater than that permitted in the district in which the proposed use would be located. Adequate planting materials to screen exposed facilities from view shall be required. Evergreens are recommended; however, selected deciduous trees may be used when appropriate.
- (2) *Golf courses.* Development features, including the principal and accessory buildings and structures, shall be so located as to minimize the possibilities of any adverse effects upon adjacent property. This shall mean that all principal or accessory buildings shall not be less than 200 feet from any abutting property line of residentially zoned lands; provided that where topographic conditions are such that buildings would be screened from view, the planning commission may modify this requirement.
- (3) *Nursery schools and day care centers.* There shall be provided a fenced outdoor play area of a size meeting the requirements of the current State of Michigan regulations pertaining to same.

(Ord. No. 578, § 5.09, eff. 5-2-1983)

Sec. 42-177. Automobile service stations, commercial garages and automotive repair shops.

(a) *Intent.* It is the intent of this section to provide standards for automobile service stations, commercial garages and automotive repair shops. Generally, automobile service stations will be located adjacent to arterial or collector streets and intended to serve residential neighborhoods. Commercial garages and automotive repair shops shall be located near high-volume arterial highways.

(b) *Special uses.*

- (1) The following uses may be permitted in conjunction with automobile service stations:
 - a. Retail sales of gasoline, oil and similar products.
 - b. Automobile washing.
 - c. Automobile maintenance, including minor.

(2) The following uses may be permitted in conjunction with commercial garages and automotive repair shops:

- a. Automobile towing, including parking of a wrecker and inoperative vehicles waiting for immediate repair.
- b. Parking and storage of inoperable vehicles, provided that such parking or storage area shall be within an enclosed building or shall be screened by an opaque fence not less than six feet in height.
- c. Automobile body repairs.
- d. Wrecker service.

(c) *Site development standards.*

- (1) The planning commission shall only issue special use permits for automobile service stations and commercial garages which comply with the following site development standards: The minimum site size shall be 15,000 square feet, and, in addition the following: A gasoline service station shall have 500 square feet of site area for each additional pump over four.
- (2) Commercial garages and automotive repair shops shall have 1,000 square feet of site area for each additional service bay over two. There shall also be 300 square feet of additional site area for each space intended for storage of inoperable vehicles.
 - a. The minimum site width shall be 130 feet.
 - b. All points of entrance or exit for motor vehicles shall be no closer than 30 feet from the intersection of the right-of-way lines for those streets on which it fronts. Points of entrance or exit for motor vehicles shall be no closer than 20 feet from any adjacent property line. The minimum driveway width at the curblines shall be 22 feet and the maximum driveway width at the curblines shall be 30 feet. The minimum width of access drive shall be 16 feet. The angle of intersection of the centerline of any driveway with the centerline of the street shall not be less than 60 degrees unless separated acceleration and deceleration lanes are provided.
 - c. A buffer strip not less than 20 feet wide shall be developed adjacent to all automobile service station, commercial garage site and automotive repair shop property lines. This buffer strip shall be graded with a berm at least three feet above the highest ground elevation within 25 feet of the buffer strip. Berm slopes shall be sufficiently gradual to prevent erosion. The berm shall be continuous along that portion of the buffer strip which abuts adjacent property, except that it need be developed only along 30 percent of the buffer strip laying adjacent to thoroughfare rights-of-way. The berm shall be designed and located so as not to interfere with the safety of persons or vehicles entering or leaving the area.
 - d. All equipment including hydraulic hoist, pits, and oil lubrication, greasing and automobile washing, repairing equipment and body repair shall be entirely enclosed within a building. Any such portion of a building containing auto body shop or washing
 - e. areas shall consist of a solid masonry wall or equivalent, approved by the building inspector, with no openings other than those required for access. There shall be no outdoor storage of merchandise such as tires, lubricants and other accessory equipment except that outdoor trash storage may be provided in a properly screened container.

- f. All activities, except those required to be performed at the fuel pump, shall be carried on inside a building. All vehicles upon which work is performed shall be located entirely within a building.
- g. There shall be no aboveground tanks for the storage of gasoline, liquefied petroleum gas, oil or other inflammable liquids or gas.
- h. The automobile service station or commercial garage shall provide one parking space for each person employed at the station during any given period of the day. Each required parking space shall be no less than 200 square feet in area. No outdoor storage or parking of vehicles, other than those used by employees while on duty, will be permitted.

(Ord. No. 578, § 5.10, eff. 5-2-1983)

Sec. 42-178. Commercial television and radio towers, public utility microwave towers, wind power generation towers.

(a) I n t e n t .

It is the intent of this section to provide regulations controlling the placement of commercial television and radio towers, public utility microwave towers, wind power generation towers and the like, including the attendant facilities.

(b) Site Development Standards.

- (1) The planning commission shall have the authority to issue special use permits for the erection of free-standing towers described in (a) above only if the towers are to be located on land owned by the Township, or if the towers are to be located in the R-4 Rural Residential District or the M-1 Commercial Industrial Park District.
- (2) The towers shall comply with the following regulations.
 - a. Guyed-wire towers shall have sufficient wires to withstand wind velocities which may be encountered in this geographical area.
 - b. Monopole towers shall .be constructed so that in the event of failure, they will collapse on themselves rather than fail at ground level and thereby constitute a threat to the public.
 - c. Self-supporting towers shall be constructed so that in the event of failure, they will not endanger persons or property off the site.
 - d. Applicants seeking a special use permit shall file a report of a registered civil engineer or specifications to establish that the tower shall not constitute a potential danger to the public in the event of failure.
 - e. Towers shall not be located within one square mile of any other tower.

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- f. Applicants shall present proof that the height of the proposed tower does not violate any height regulations established by the Federal Aviation Administration ("FAA").
- g. Applicants shall covenant that they and any successor owners will permit multiple antennas to be placed on the towers at reasonable rental rates.
- h. Applicants are encouraged to utilize existing building and structures for the erection of communication antennas such as on top of water storage towers and church steeples. No new tower shall be permitted unless applicants demonstrate to the reasonable satisfaction of the planning commission that no existing tower, antenna or structure can accommodate the applicants without the erection of the requested new tower.
- i. Tower sites shall be perimeter-fenced to deter unauthorized persons from entry. The fencing shall be at least six feet high and shall include appropriate anti-climbing devices.
- j. Applicants shall covenant that in the event they or any successor owners cease to utilize the tower for communication or fail to keep it in good condition, the applicants or owners shall remove the tower and all appurtenances from the site.
- k. Towers shall either have a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color to reduce visual obtrusiveness.
- l. Towers shall not be artificially lit, unless required by the FAA or other applicable authority.
- m. No signs or advertising shall be allowed on a tower. However, a tower owner may post a sign no larger than four square feet designating a person to contact in an emergency, together with the person's telephone number and address.
- n. In addition to any other standards for considering special use applications, the planning commission shall consider the following factors when deciding whether or not to issue a special use permit for a new tower: availability of existing towers or antennas or other structures; height of the proposed tower; proximity of the proposed tower to residential structures and residentially zoned areas; nature of uses on adjacent and nearby property; surrounding topography; surrounding tree coverage and foliage; and proposed ingress and egress. Ord 735 effective 11/30/2003

Sec. 42-179. Home occupations.

(a) *Intent.* It is the intent of this section to provide regulations controlling accessory uses conducted entirely within a dwelling and carried on by the inhabitants thereof.

(b) *General requirements.*

- (1) The nonresidential use shall only be incidental to the primary residential use.
- (2) The home occupation shall utilize no more than 25 percent of the floor area of the principal building.
- (3) 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 off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.
- (4) The home occupation shall not involve persons other than those members of the immediate family residing on the premises.
- (5) All activities shall be carried on indoors, only in the principal building. No outdoor activities or storage shall be permitted.
- (6) There shall be no change in the exterior appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one announcement sign, not exceeding two square feet in area, nonilluminated, and mounted flat against the wall of the principal building.
- (7) No traffic shall be generated by such home occupation in greater volumes that would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard.
- (8) No stock or commodity for direct sale shall be permitted upon the premises. (Ord. No. 578, § 5.12, eff. 5-2-1983)

State law reference—Use of single-family residence to give instruction in craft or fine art, MCL 125.271a.

See. 42-180. Soil removal, sand and gravel mining and related land use activities and structures.

(a) *Intent.* The intent of this article is to promote the public health, safety and general welfare of the residents of the township, to preserve the natural resources and to prevent the creation of nuisances and hazards to the public welfare, health, safety, morals and well-being of the residents of the township.

(b) *Permit required.* It shall be unlawful for any persons to dump, remove, or strip any soil or other material without a permit from the township planning commission. No permit will be required where the moving, grading or leveling of the aforesaid materials is carried on for the immediate use or development of land upon which these substances are found or where the removal or dumping is incidental to the construction or alteration of a building or the premises, pursuant to a building permit issued by the building inspector. However, where major reshaping of the land is contemplated either by removal or dumping, the aforesaid permit shall be required. The application for any permit shall be filed with the township clerk in quadruplicate, the original of which shall be sworn to before some person lawfully authorized to administered oaths, and shall set forth the following information and shall be accompanied by the following data:

- (1) A full identification of the applicant and all persons to be directly or indirectly interested in the permit if granted.
- (2) The residence and business address of the applicant.
- (3) A complete description and location of the property on which the work is proposed to be done by a registered civil engineer or land surveyor.

- (4) The exact nature of the proposed excavation and soil to be removed or dumped and an estimate of the approximate number of cubic yards to be removed or dumped. This computation to be made by a registered civil engineer and land surveyor if deemed necessary
- (5) A statement of the manner in which it is proposed to dump or excavate and remove the soil or other materials including the slope of the sides and the level of the floor, and the finished grade and condition of the property following the completion of the project, and the kind of equipment proposed to be employed in making such excavation and removing such material.
- (6) The proposed route which applicant proposes to use over the public streets and over private property in transporting such materials.
- (7) The past experience of the applicant in the matter to which the permit appertains and the name, address and past experience in such matter of the person to be in charge of the proposed operations.
- (8) Whether or not any permit of applicant has been revoked and if so, the circumstances of such revocation.
- (9) The time within such excavation or dumping is to be commenced after the granting of such permit and the time when it is to be completed.
- (10) Such further information as the township clerk, building inspector or township planning commission may require.

(c) *Filing map and payment of filing fee.* At the time of the filing of the application provided for in section 42-180(b), the applicant shall file with the township clerk a topographic map of the property on which the proposed work is to be done covering an area having a radius of 300 feet, so far as may be possible, from the exterior boundary of the proposed site. At the time of filing the map and application for permit, the applicant shall pay a filing fee of \$150.00. This sum is to be used to defray the cost of engineering services, investigation, publication charges and other miscellaneous administrative expenses occasioned by processing such application.

(d) *Hearing.*

- (1) *Investigation and hearing.* Immediately upon the filing of an application for a permit as provided in section 42-180(b), one copy thereof shall be delivered to the township planning commission and one copy to the building inspector. The building inspector shall make an investigation of the facts set forth in the application and shall make a written report of his investigation, together with his recommendations to the township planning commission. The township planning commission shall hold a public hearing upon the application within 30 days thereafter.
- (2) *Notice of hearing on application.* Notice of hearing of such application shall be given by the township clerk by mailing a copy thereof addressed to the applicant and to the owners of the property, as appears on the last assessment rolls of the township, within 300 feet radius of the exterior boundaries of the proposed site and at least five days prior to the date set for the hearing. Such notice shall contain a statement of the time and place of the hearing of the application, the name of the applicant, a general description of the premises where the applicant proposes to do the work and a general statement of the size and nature of the proposed excavation or dumping area.

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(e.) *Payment of permit fee; inspections required.* At the time the issuance of the permit for the excavation or dumping is granted, the applicant shall pay a permit fee to cover the expenses of inspection and examination of the continued operation of the site of \$25.00. The site shall be inspected upon completion of each six-month period of operation or as often as deemed necessary or as often as the inspection and examination fee shall be required at the time of each inspection. Written approval of the work done and proposed in the next six-month period shall be conveyed to the operator upon completion of the inspection. The fees and costs required by this section shall be in addition to any fees or deposits required by other provisions of this article.

(f) *Deposit of bond and certificate of insurance.* The township planning commission shall require as a condition to the granting of any permit under this article that the applicant deposit a surety bond, in an amount to be fixed by the township planning commission insuring to the benefit of the township and the general public, guaranteeing that the applicant will faithfully perform all of the conditions and requirements under which the permit is issued. The township planning commission shall also require, as a condition to the granting of any such permit, that the applicant deposit a certificate of a responsible indemnity company, in an amount reasonably relevant to the proposed work to be done, insuring the township and the public against any loss or damage to persons or property arising directly or indirectly from the operations of the applicant, or any person acting on his behalf in carrying on any work connected directly with the issuance of the permit.

(g) *Consideration by the planning commission.* The township planning commission in granting or denying any application for a permit under this article shall take into consideration the zoning of the proposed site, character of the proposed site, character of the applicant with respect to morality; honesty and integrity, financial responsibility and all pertinent things concerning the health, safety, preservation of natural resources and the preventing of nuisances and hazards and shall be granted if it appears from the investigation thereof that the project would not remove the lateral and subjacent support of the adjacent land and result in a dangerous topographic condition, or result in seepage or slides or create an attractive nuisance dangerous to public safety, or that it otherwise would in any manner endanger the public health, morals and prevent the preservation of natural resources, or be detrimental to the general public welfare.

(h) *Other conditions required of applicant.* Every person to whom any permit is issued to make an excavation is granted under this article shall comply with the following:

(1) *As to excavations.*

- a. All vehicles transporting soil or other materials from such excavation over the public streets of the township shall travel only directly over such route as may be directed by the township planning commission to be least dangerous to public safety, cause the least interference with general traffic and cause the least damage to public streets.
- b. The floor of any such excavation shall not be made lower than the level thereof as set forth in the application provided for in section 42-180(b).
- c. If, in the opinion of the township planning commission, any such excavation will present a dangerous condition if left open, such excavation shall be enclosed by a chain link or wire mesh fence completely surrounding the portion of the site where the excavation extends, the fence to be not less than five feet in height complete with gates, which gates shall be kept locked when operations are not being carried on. Barbed wire shall not be used.

- d. Any soil or other material that may be deposited on any public street or place from any vehicle transporting such materials from any such excavation shall be immediately removed in a manner satisfactory to the township planning commission at the expense of the person to whom the permit to excavate was issued.
- e. Any roads used for the purpose of ingress and egress to the excavation site which are located within 300 feet of an occupied residence shall be kept dust free by hard topping with concrete, bituminous substance, chemical treatment or other means approved.
- f. The slopes of the banks of the excavation shall in no event exceed a minimum of five feet to one foot (five feet horizontal to one foot vertical) and where ponded water results from the operation, this slope must be maintained and extended into the water to a depth of three feet.
- g. Where excavation operations result in a body of water, the owner or operator shall place appropriate signs designated "Keep Out/Danger" around the premises not more than 100 feet apart.
- h. No cut or excavation shall be made closer than N feet from the nearest street or highway right-of-way nor nearer than 40 feet to the nearest property line; provided, however, the township planning commission may prescribe more strict requirements in order to give sublateral support to surrounding property where soil or geographic conditions warrant it.
- i. No person shall open more than 15 acres of land for purposes of excavation for, or operation of, a gravel or sand mining pit at one time, and such excavation shall not be allowed to remain open for any period in excess of one year except by special permission of the township planning commission.

During the period in which excavation is being made or a pit is being operated, no person, firm, or corporation shall allow pools or puddles of water to form and become stagnant, and any person operating a pit shall at least once each month spray any pools or ponds which may exist in conjunction with such operations to keep such from becoming breeding places for mosquitoes or otherwise creating an unhealthy condition.
- k. In all cases wherein a lake, pool, or pond is constructed in connection with the operation of a pit and the same is within 1,000 feet of any residence, chain link fences shall be placed around such body of water adequate to prevent children from entering.
- l. The township planning commission shall require such other performance standards where because of peculiar conditions, they deem it necessary for the protection of health, safety, morals, preservation of natural resources and well-being of the citizens of the township.
- m. The site shall *be* so landscaped upon completion of each excavated or filled part of the site, that all soil erosion by wind and water will be eliminated.

(2) *As to stripping operations.*

- a. *Na* soil or other material shall be removed below a point six inches above the mean elevation of the centerline of the nearest existing proposed street or road established or approved by the township except as required for the installation of utilities and pavement.

- b. No soil or other materials shall be removed in such a manner as to cause water to collect or to result in a place of danger or a menace to the public health. The premises shall at all times be graded so that surface water drainage is not interfered with.
- c. Sufficient topsoil shall be stockpiled on the site so that the entire site, when stripping operations are completed, may be recovered with a minimum of four inches of topsoil and the replacement of such topsoil shall *be made* immediately following the termination of the stripping operations. In the event, however, that such stripping operations continue over a period of time greater than 30 days, the operator shall replace the stored topsoil over the stripped areas as he progresses.

(3) *As to dumping operations.*

- a. Within six months following dumping, the parcel of land must be graded in such a manner as to prevent the collection of water to provide proper drainage and to leave the ground surface reasonable level or smooth, free of all rock, stone, cement, heavy aggregate or rubbish, and fit for the growth of turf and other land uses permitted in the district.
- b. No soil or other material shall be dumped on the spillways or floodplains of any natural or artificial streams of watercourse, or any area between the upper and lower banks of such streams or watercourse, except on the approval of the township planning commission, after a public hearing and on a satisfactory showing that such dumping will not result in damage to other property within the limits of the township and will not be detrimental to the public health, safety, preservation of natural resources or welfare. The floodplain is defined as the land abutting a watercourse which has stored the overflow of stormwater during periods of heavy storm.
- c. Waste and rubbish dumping shall meet the requirements of this section of this article and all other provisions thereof.

(f) *Excavation or holes.* The existence within the limits of the township of any unprotected, unbaricaded, open or dangerous excavation, holes, pits, or wells or of any excavations, which constitute a danger or menace to the public health, safety, morals and preservation of natural resources are hereby prohibited and declared a public nuisance; provided, however, that this article shall not prevent the construction of excavations under a permit of the township where such excavations are properly protected and warning signs and lights located in such a manner as may be approved by the township planning commission, and provided further that this section shall not apply to drains created or existing by authority of the State of Michigan, County of Muskegon, or other governmental agency. Where the township planning commission shall determine a nuisance to exist as herein defined, it shall notify the owner as shown on the latest tax rolls in writing of such finding and require the owner to abate such nuisance within a reasonable time, in no event less than 30 days. In the event no appeal is made within ten days time, the township planning commission may abate or cause to be abated such nuisance, and the cost or reasonable value of such work shall be placed as an assessment against such property on the next assessment roll.

(j) *Revocation and suspension of permit.* Any permit granted pursuant to this article may be revoked or suspended for failure to comply with any of the provisions of such sections. Revocation of such permit shall be accomplished only pursuant to a public hearing held before the township planning commission after *five days'* notice to such permit holder stating the grounds of complaint against permittee stating the time and place where such hearing will be held. If,

in the opinion of the building inspector, the public health, safety, or welfare requires it, the building inspector may suspend any permit granted hereunder pending the hearing for the revoking of such permit by the township planning commission. Such revocation or suspension of any permit shall be in addition to the penalty for a violation of this article provided in section 42-180(i).

(k) *Expiration of permit.* In the event that any work for which a permit has been granted under this article is not commenced within six months from the date of granting of such permit or in the event work is not started on excavations pursuant thereto, such permit shall automatically expire by limitation and cease to be valid for any purpose. Such expired permit may be reviewed by the township planning commission for continuance without payment of permit filing fee, provided that the commencement date changed or abandonment is caused by access problems or weather conditions.

(1) *Modification and exceptions.* In areas where, in the judgment of the township planning commission or administrative staff, adequate provisions are made to safeguard adjacent properties or in the case of fills and excavations of minor importance situated in isolated areas the township planning commission may waive any or all of the requirements in section 42-180(h).

(Ord. No. 578, § 5.13, eff. 5-2-1983)

State law reference—Soil erosion and sedimentation control, MCL 324.9101 et seq.

Sec. 42-181. Planned unit residential developments (MID).

(a) *Intent.* It is the intent of this section to provide for an added degree of flexibility in the placement and interrelationship of buildings incorporating a variety of residential dwellings, and encouraging a more creative approach to development. Such criteria are further intended to:

- (1) Result in a more efficient development pattern with shorter streets and utility networks.
- (2) Preserve existing natural assets, such as stands of trees, floodplain, open fields and the like.
- (3) Accomplish a more desirable residential environment than would be possible through the strict application of minimum requirements of this chapter.
- (4) Encourage the utilization of open space and the development of recreational facilities generally located within a reasonable distance of all living units.
- (5) Such development may consist of individual lots or common building sites. Common land and open space are essential elements of the plan related to affecting the long-term aesthetic and economic values of the entire development.

(b) *General requirements, restrictions and standards.*

- (1) *Minimum project area.* Minimum project area allowable for planned unit residential developments shall be five acres.
- (2) *Location.* Planned unit residential developments may be located in any residential district, upon approval of the planning commission.

(3) *Uses permitted.* Only the following land and/or building uses may be permitted under the provisions of this section:

- a. All uses permitted in the district for which the planned unit residential development is approved.
- b. Any additional uses which can be shown to be compatible with the general objectives of the comprehensive plan as well as integral to the specific planned residential development scheme in which they are contained. For the purpose of this section, an integral use shall be defined as a use which has a specific functional relationship with other uses contained in the development, as for example, a day care center which serves primarily the needs of residents of the development.

(4) *Minimum requirements.*

- a. Yard, setback, lot size, type of dwelling unit, height, and frontage requirements restrictions are waived for the planned unit residential development; provided, however, that the spirit and intent of this section, as defined in the purpose clause, are incorporated within the total development plan. The planning commission may determine that certain setbacks be established within all or a portion of perimeter of the site, and shall determine the suitability of the total development plan in accordance with subsection (a) of this section of this section.
- b. Every structure or dwelling unit shall have access to a public street, walkway or other area dedicated to common use.
- c. The approximate location of structures, shown on the conceptual development plan, shall be so arranged as not to *be* detrimental to existing or proposed structures within the development or surrounding neighborhood.

(5) *Privacy.* Each development shall provide reasonable visual and acoustical privacy for dwelling units. Fences, walks, barriers, and landscaping shall be used, as appropriate, for the protection and aesthetic enhancement of property and the privacy of its occupants, screening of objectionable views or uses, and reduction of noise.

(6) *Off-street parking.* Parking convenient to all dwelling units and other uses, shall be provided pursuant to the minimum requirement of article WI, division 1 of this chapter. Common driveways, parking areas, walks and steps may be required together with appropriate lighting, in order to ensure the safety of the occupants and the general public. Screening of parking and service areas may be required through use of trees, shrubs, hedges or screening walls.

(7) *Land use pattern.* All of the elements of the site plan shall be harmoniously and efficiently organized in relation to topography, the size and type of plot, the character of adjoining property, and the type and size of buildings. Arrangement of buildings shall be done in such a way to utilize natural topography, existing vegetation and views within and beyond the site.

- (8) *Density*. The density (dwelling units per acre) in a planned unit residential development shall not exceed the density of the zone in which it is located. When more than one zone is involved, the density of the project will be the average of the zones, weighted in direct proportion to the size of the property within the project in each zone. Only one-half of the total portion of the site comprised of floodplain, swamps, or a water body, may be used in the calculation of densities of a project.
- (9) *Open spaces*. The term "common open space" is defined as a parcel or parcels of land or an area of water or a combination of land and water designed and intended for the use or enjoyment of the residents of the PURD or of the general public. Common open space does not include proposed street rights-of-way, open parking area, or commercial areas. Common open space may contain accessory structures and improvements necessary or desirable for religious, educational, noncommercial, recreational or cultural uses. A variety of open space and recreational areas is encouraged such as: children's informal play areas in close proximity to individual dwelling units, according to the concentration of dwellings; formal parks, picnic areas; playgrounds; and scenic open areas and communal, noncommercial, recreational facilities.
- a. The area of common open space within a PURD project may not be less than 25 percent of the total land area of the project.
 - b. All common open space shown on the final development plan must be reserved or dedicated by lease or conveyance of title to a corporation, association or other legal entity, or by reservation by means of a restrictive covenant. The terms of such lease or other instrument must include provisions guaranteeing the continued use of such land for the purposes intended and for continuity of proper maintenance of those portions of the open space land requiring maintenance.
- (10) *Improvements*.
- a. *Circulation facilities*. The arrangements of public and common ways for pedestrian and vehicular circulations shall be coordinated with other existing or planned streets in the area.
 - b. *Utilities*. Planned unit residential development shall, where feasible, provide for underground installation of utilities (including electricity and telephone) in both public ways and private extensions thereof. Provisions shall be made for construction of storm sewer facilities including grading, gutters, piping, and treatment of turf to handle stormwaters, and to prevent erosion and the formation of dust. This could include the establishment of retention basins in order to minimize stormwater runoff.
 - c. *Pedestrian circulation*. The pedestrian circulation system and its related walkways shall be insulated as completely and as reasonably as possible from vehicular movement.
 - d. *Recreation areas*. Recreational facilities for the residents of the project, not impairing the view and privacy of the living units, shall be provided in easily accessible locations.

e. Planting. The appeal and character of the site shall be preserved and enhanced by retaining and protecting existing trees and other site features; additional new landscaping shall be added for privacy, shade, beauty of buildings and grounds and to screen out objectional features.

(c) Procedures.

(1) Applications. Applications shall be submitted through the township clerk's office to the planning commission.

(2) Preliminary review for special use permit.

- a. In addition to those requirements set forth in article W of this chapter the developer must submit the following, for the initial phase of project review:
 1. A development plan, drawn to a readable scale, of the total property involved showing its location in the township and its relationship to adjacent property
 2. A site plan indicating the proposed types and location of dwelling units and the anticipated population density associated with each type as well as the entire project.
 3. A site plan indicating the location and purpose of all nonresidential structures, traffic circulation, parking layout and pedestrian pathways.
 4. A site plan showing the acreage, nature and location of common open space, and a general statement as to the means by which the developer will guarantee its continuity and maintenance.
- b. Following receipt and review of the application, the planning commission shall hold a legally advertised public hearing on the proposed development. Upon conclusion of the public hearing, the planning commission will make a decision to approve or deny the plan based on the submitted information.
- c. At the time of approval by the planning commission, the preliminary review of the project will be sent to the township board for their action. If approved, the project continues under the secondary review procedure. If denied, the township board shall so notify the applicant and the planning commission.

(3) Secondary review for special use permit.

- a. Prior to receiving secondary approval the developer must submit the following to the planning commission for their review:
 1. A site plan indicating engineering recommendations for water, sanitary sewer, storm drainage, natural gas, electric and telephone systems.
 2. A site plan indicating recommendations for road alignments, with provisions for dealing with topography and soil conditions.
 3. A site plan indicating existing contours and the final topographic conditions proposed for the site after grading.
 4. A detailed landscaping plan.
 5. A specific schedule of the intended development and construction details, including phasing or timing as they relate to open space, recreational features, common use areas, utilities and screening requirements.
- b. The planning commission will make a final decision to approve or deny the project based on the final detailed information specified above.

- (4) *Commencement and construction.* The applicant shall commence construction for an approved planned unit residential development within one year following recording of approved final plat or special use permit if no plat is necessary. Failure to do so, will invalidate the permit. The applicant may request one extension for not more than one year from the planning commission, providing such request is received prior to the expiration of the original permit.

(Ord. No. 578, § 5.14, eff. 5-2-1983)

State law reference—Planned unit development, MCL 125.286c.

Sec. 42-182. Neighborhood shopping centers.

(a) *Intent.* It is the intent of this section to provide for the establishment of planned neighborhood convenience shopping centers which can efficiently serve day-to-day shopping needs. Consolidation of convenience shopping facilities into planned shopping centers is encouraged in order to avoid strip commercial development, lessen traffic conflicts and improve the safety convenience of customers. Consolidation is also encouraged in order to economically provide for the appropriate landscape buffers needed to protect property values in adjacent areas. The regulations and conditions contained in this section are designed to ensure that planned neighborhood convenience shopping centers will be developed at locations which will most efficiently serve the convenience shopping needs of the township.

(b) *Site location standards.*

- (1) Located in accordance with Fruitport's land use plan.
- (2) Motor vehicle entrance and exit shall be only from a major street (minor arterial or collector).
- (3) Where possible existing trees on the site shall *be* preserved. In addition, new landscaping shall be added to enhance the beauty of the development. A landscaping plan shall be included with the site plan.
- (4) The proposed use, site plan, construction and the resultant activities of the use must be reasonably compatible with the surrounding conforming uses and their development.
- (5) The site plan must be properly related to all aspects of ingress and egress, so as to optimize the safety and convenience of both pedestrians and vehicles.
- (6) All buildings and structures must be properly related to all existing and planned buildings and structures on surrounding property.
- (7) Plans and specifications should provide for the proper development of roads, easements for drainage and utilities in such a way as to adequately and reasonably assure the protection of the public health, safety and welfare.
- (8) Other special information and other consideration relative to the existing site or the proposed site plan may be required if the planning commission deems them necessary to the protection of the public health, safety and general welfare.

(Ord. No. 578, § 5.15, eff. 5-2-1983)

Sec. 42-183. Drive-in restaurants, bars and lounges.

(a) *Intent.* It is the intent of this section to provide development regulations for drive-in restaurants, bars and lounges which potentially present particular problems in their relationships to adjacent uses and traffic patterns in the districts in which they are permitted.

(b) *Site development standards.* The planning commission shall only issue special use permits for drive-in restaurants which comply with the following site development standards:

- (1) The minimum site size shall be 20,000 square feet.
- (2) The minimum lot width shall be 125 feet.
- (3) All points of entrance or exit for motor vehicles shall be no closer than 30 feet from the intersection of the right-of-way lines of two streets and no closer than ten feet from an adjacent property line. The maximum driveway width at the curbline shall be 30 feet. No more than two driveway approaches shall be permitted on any street frontage.
- (4) The outdoor space used for parking and vehicle stacking shall be hard surfaced and adequately drained.
- (5) All areas used for the storage of trash and rubbish shall be screened by a vertical screen consisting of structural or plant materials no less than six feet in height, with a view-obstructing door.
- (6) Drive-in restaurant management shall provide adequate trash and litter containers, and policing for the parking lot and the shoulders of adjacent roadways. These areas shall be completely cleared of accumulated debris as often as necessary.
- (7) A buffer strip not less than 20 feet wide shall be developed adjacent to all drive-in restaurants, bars and lounges. This buffer strip shall be graded with a berm at least three feet above the highest ground elevation within 25 feet of the buffer strip. Berm slopes shall be sufficiently gradual to prevent erosion. The berm shall be continuous along that portion of the buffer strip which abuts adjacent property, except that it need be developed only along 30 percent of the buffer strip lying adjacent to thoroughfare rights-of-way. The berm shall be designed and located so as to not interfere with the safety of persons or vehicles entering or leaving the area.

(Ord. No. 578, § 5.16, eff. 5-2-1983)

Sec. 42-184. Industrial uses in commercial/industrial park and service commercial districts.

(a) *Uses requiring special use permits.* The following uses of land and structures are permitted in an industrial district:

- (1) Carpenter, electrical, plumbing, heating or sheet metal shops, printing, publishing or lithographing, electroplating, furniture upholstery, paint, paper-hanging or sign painting.
- (2) Building materials and retail lumber yard, contractors' equipment storage yard, storage and sale of livestock feed and/or fuel, storage yard for vehicles of a delivery or draying service, public utility service yard, stone or monument works.
- (3) Wholesale supply and trade including warehousing.
- (4) Motor freight terminal buildings, including garaging and maintenance of equipment.
- (5) Manufacture, compounding, assembling or treatment of articles or materials including the processing of raw materials and heavy manufacturing.

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(6) Petroleum storage.

(b) *General standards.*

- (1) Unless specifically mentioned, all activities in this district shall be carried on in completely enclosed buildings.
- (2) Where properties adjoin residential and commercially zoned areas storage of finished or unfinished materials, or any equipment or machinery necessary to the operation, is permitted, but all storage areas shall be effectively screened by a solid, uniformly finished wall or fence with solid entrance and exit gates. Such wall or fence shall in no case be lower than the enclosed storage.
- (3) Landscaping shall be maintained in all required front, side and rear yards, in accordance with plans approved by the planning commission as a part of site plan review.
- (4) Lighting shall be accomplished in a manner such that no illumination source is visible beyond the property lines of the lot upon which the use is located, and such that no illumination shall adversely affect the welfare of an adjacent property
- (5) Trash containers shall be enclosed by a structure covered on at least three sides. The property shall be *maintained free* from litter, and in a sanitary condition.
- (6) Air-conditioning units, heating oil storage tanks, or similar appurtenances shall be properly screened as approved by the planning commission.
- (7) Where industrial uses adjoin residential and commercially zoned properties, and the planning commission deems it necessary to provide adequate protection of these districts, a buffer strip not less than 20 feet *wide* shall be developed. This buffer strip shall be graded with a berm at least three feet above the highest ground elevation within 25 feet of the buffer strip. Berm slopes shall be sufficiently gradual to prevent erosion. The berm shall be continuous along that portion of the buffer strip which abuts adjacent property, except that it need be developed only along 30 percent of the buffer strip laying adjacent to thoroughfare rights-of-way. The berm shall be designed and located so as not to interfere with the safety of persons or vehicles entering or leaving the area.

(c) *Performance standards.* It shall be unlawful to carry on or permit to be carried on any activity or operation or use of any land, building, or equipment that produces irritants to the sensory perceptions greater than the measures herein established which are hereby determined to be the maximum permissible hazards to humans or human activities. Such measures may be supplemented by other measures which are duly determined to be maximum permissible hazards to humans or to human activity

(1) *Noise.* The intensity level of sounds shall not exceed the following decibel levels when adjacent to the following types of uses:

<i>In Decibels</i>	<i>Adjacent Use</i>	<i>Where Measured</i>
NBA)		
55	Residential dwellings	Common lot line
65	Commercial	Common lot line
70	Industrial and other	Common lot line

The sound levels shall be measured with a type of audio output meter approved by the Bureau of Standards. Objectionable noises due to intermittence, beat frequency or shrillness, shall be muffled so as not to become a nuisance to adjacent uses.

- (2) *Vibration.* All machinery shall be so mounted and operated as to prevent transmission of ground vibration exceeding a displacement of .003 of one inch, as measured at the property line.
 - (3) *Odor.* The emission of noxious, odorous matter in such quantities as to be readily detectable at any point along lot lines when diluted in the ratio of one volume of odorous air to four or more volumes of clean air or as to produce a public nuisance or hazard beyond lot lines is prohibited.
 - (4) *Gases.* The escape of or emission of any gas which is injurious or destructive or explosive shall be unlawful and may be summarily caused to be abated.
 - (5) *Glare and heat.* Any operation producing intense glare or heat shall be performed within an enclosure so as to completely obscure and shield such operation from direct view from *any* point along the lot line, except during the period of construction of the facilities to be used and occupied.
 - (6) *Light.* Exterior lighting shall be so installed that the surface of the source of light shall not be visible from any bedroom window, and shall be so arranged as far as practical to reflect light away from any residential use, and in no case shall more than one foot candle power of light cross a lot line five feet above the ground in a residential district.
 - (7) *Electromagnetic radiation.* Applicable rules and regulations of the Federal Communications Commission in regard to propagation of electromagnetic radiation are hereby made a part of this chapter.
 - (8) *Smoke.* It shall be unlawful to discharge into the atmosphere from any single source of emission whatsoever any air contaminator for a period or periods aggregating more than four minutes in any one-half hour which is:
 - a. As dark or darker in shade as that designated as No. 2 on the Ringelmann Chart. The Ringelmann Chart, as published by the United States Bureau of Mines, which is hereby made a part of this chapter, shall be the standard. However, the Umbrascopes readings of smoke densities may be used when correlated with the Ringelmann Chart. A Ringelmann Chart shall be on file in the office of the building inspector.
 - b. Of such opacity as to obscure an observer's view to a degree equal to or greater than the smoke described in a. above, except when the emission consists only of water vapor.
 - (9) *Drifted and blown material.* The drifting or airborne transmission to areas beyond the lot line of dust, particles, or debris from any open stock pile shall be unlawful and may be summarily caused to be abated.
 - (10) *Radioactive materials.* Radioactive materials shall not be emitted to exceed quantities established as safe by the U.S. Bureau of Standards, as amended from time to time.
 - (11) *Sewage wastes.* No industrial sewage shall be discharged into sewers that will cause chemical reaction, either directly or indirectly with the materials of construction to impair the strength or durability of sewer structures; cause mechanical action that will destroy or damage the sewer structures; cause destruction of the hydraulic capacity of sewer structures; cause placing of unusual demands on the sewage treatment equipment or process; cause limitation of the effectiveness of the sewage treatment process; cause danger to public health and safety; or cause obnoxious conditions inimical to the public interest. Industrial sewage discharges shall meet all applicable state and federal requirements.
- (Ord. No. 578, § 5.17, eff. 5-2-1983)

Sec. 42-185. Gun clubs.

Site and performance standards for gun clubs with outdoor ranges.

- (1) Minimum lot area: 39 acres.
- (2) Minimum front, side and rear yards: minimum front, side and rear yards of 250 feet.
- (3) Hours of operation: 9:00 a.m. till 4:00 p.m.
- (4) Separation from residential dwellings and districts: the shooting range shall not be closer than one-half mile from all dwellings, residentially zoned districts and farm animals
- (5) Backstops: rifle and pistol ranges shall have adequate backstops that meet the approval of the planning commission.

(Ord. No. 578, § 5.18, eff. 5-2-1983)

Sec. 42-186. Kennel.

(a) *Intent.* It is the intent of this section to provide development and operational regulations for kennels which potentially present particular problems to adjacent uses.

(b) *Site and performance standards.*

- (1) The structure and fenced in area which will house the kenneled animals shall be placed no closer than 150 feet from the front lot line and 100 feet from the rear and side lot lines.
- (2) Adequate buffering measures shall be provided to reduce irritants to the sensory perceptions. The intensity level of sounds shall not exceed 55 decibels (dBA) at the common lot line when adjacent to residential uses and residential districts. The sound levels shall be measured with a type of audio output meter approved by the U.S. Bureau of Standards.

(Ord. No. 578, § 5.19, eff. 5-2-1983)

Sec. 42-187. Indoor recreation facilities.

(a) *Intent.* It is the intent of this section to provide development regulations for indoor recreation facilities such as theaters, bowling alleys, restaurants and dancehalls.

(b) *Site development standards.*

- (1) The minimum site size shall be one acre.
- (2) The minimum lot width at the building line shall be 200 feet.
- (3) All points of entrance or exit for motor vehicles shall be no closer than 30 feet from the intersection of the right-of-way lines of two streets and no closer than 20 feet from an adjacent property line. The maximum driveway width at the curb line shall be 30 feet. No more than two driveway approaches shall be permitted on any street frontage.
- (4) The outdoor space used for parking and vehicle stacking, shall be paved and adequately drained.

- (5) All areas used for the storage of trash and rubbish shall be screened by a vertical screen consisting of structural or plant materials no less than six feet in height, with a view-obstructing door.
- (6) The management of the establishment shall provide adequate trash and litter containers, and the policing of the parking lot and the shoulders of adjacent roadways. These areas shall be completely cleared of accumulated debris as often as necessary
- (7) Exterior lighting shall be so installed that the surface of the source of light shall not be visible from any bedroom window, and so arranged as far as practical to reflect light away from any residential use, and in no case shall more than one footcandle power of light cross a lot line five feet above the ground into a residential district.

(Ord. No. 578, § 5.20, eff. 5-2-1983)

Sec. 42-188. Mobile home parks; general requirements.

(a) *Compliance with regulations.* All mobile home parks shall comply with the Mobile Home Commission Act, Act No. 419, Public Acts of 1976, being MCL 125.1101 et seq. and any amendatory acts and regulations that become applicable from time to time.

(b) *Minimum lot area.* The minimum lot area shall be 39 acres.

(Ord. No. 578, § 5.21, eff. 5-2-1983)

Editor's note—Act No. 419 of the Public Acts of Michigan of 1976 was repealed by Act No. 96 of the Public Acts of Michigan of 1987. For current provisions see MCL 125.2301 et seq.

Sec. 42-189. Two-family dwellings.

(a) *Intent.* It is the intent of this section to provide regulations, guiding as opposed to strictly controlling, the conversion or construction of two-family dwellings. It is recognized that two-family units do fill a need in the community for sound, affordable housing for persons of varying age groups and needs. Duplexes also serve as a transitional use in selected situations. General locational requirements for two-family structures are multifaceted and are indicated in subsection (c) of this section.

(b) *Basis for application.* The application of design guidelines for two-family units under these circumstances is based upon the appropriate use of sound materials and upon the principles of harmony and proportions in the elements of the structure, especially in relation to surrounding uses and structures.

(c) *Site location and development standards.* General locational criteria for the development of two-family structures include:

- (1) In instances of residential conversion from a single-family structure to a two-family dwelling, such residences shall be situated in the older, established neighborhoods.
- (2) In other instances, two-family dwellings shall serve a transitional function being located at entrances to subdivisions abutting high traffic situations or adjacent to public, high-density residential, office or other nonresidential uses.
- (3) Lot area requirements shall be double those for the district in which the duplex is to be located.

(Ord. No. 578, § 5.22, eff. 5-2-1983)

Sec. 42-190. Professional offices, retail/convenience services, banks, hotels and motels.

(a) **Intent.** It is the intent of this section to provide development regulations for professional offices, convenience-retail stores, banks, hotels and motels which potentially present particular problems in their relationships to adjacent uses and traffic patterns in the districts in which they are permitted.

(b) **Site development standards.** The planning commission shall only issue special use permits for professional offices, retail/convenience services, banks, hotels and motels which comply with the following site development standards:

- (1) The minimum site size shall be 20,000 square feet.
- (2) The minimum lot width shall be 125 feet.
- (3) All points of entrance or exit for motor vehicles shall be no closer than 30 feet from the intersection of the right-of-way lines of two streets and no closer than ten feet from an adjacent property line. The maximum driveway width at the curblin shall be 30 feet. No more than two driveway approaches shall be permitted on any street frontage.
- (4) The outdoor space used for parking and vehicle stacking, shall be paved and adequately drained.
- (5) All areas used for the storage of trash and rubbish shall be screened by a vertical screen consisting of structural or plant materials no less than six feet in height, with a view-obstructing door.
- (6) Exterior lighting shall be so installed that the surface of the source of light shall not be visible from any bedroom windows, and so arranged as far as practical to reflect light away from any residential use, and in no case shall more than one footcandle power of light cross a lot line five feet above the ground into a residential area.

(Ord. No. 578, § 5.23, eff. 5-2-1983)

Secs. 42-191-42-220. Reserved.

**FRUITPORT CHARTER TOWNSHIP
ZONING TEXT AMENDMENT ORDINANCE**

DIVISION 3. SEXUALLY ORIENTED BUSINESSES

Sec. 42.200. Purpose and Intent,

It is recognized that there are some uses which, because of their very nature, have serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances or when one (1) or more of them are located in near proximity to a Residential Zone, thereby having a negative deleterious affect upon the adjacent areas. Special regulation of these uses is necessary to ensure that these adverse affects will not contribute to the blighting or downgrading of the surrounding neighborhood. These special regulations and controls are *for* the purpose of preventing a concentration of these uses within any one (I) area, or to prevent deterioration or blighting of a nearby residential neighborhood.

In regulating sexually oriented businesses, it is the purpose and intent of these regulations to promote the health, safety, and general welfare of the citizens of the Township, and to establish reasonable and uniform regulations to prevent the negative secondary affects associated with sexually oriented businesses located within the Township. These regulations have neither the purpose nor the effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of these regulations to restrict or deny access by adults to sexually oriented materials protected by the First Amendment to the United States Constitution and Article 1, Section 5 of the Michigan Constitution of 1963, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of these regulations to condone or legitimize the distribution of obscene material.

Sec. 42.201. Definitions.

The following definitions shall apply in the interpretation and enforcement of this Article only.

Sexually Oriented Business means a business or commercial enterprise that conducts or engages in any of the activities hereinafter defined:

Adult Arcade means any place to which the public is permitted or invited wherein coin-operated, slug-operated, electronically controlled, electrically controlled, or mechanically controlled still picture or motion pictures machines, projectors, image-producing or image-projecting devices are maintained to show images to five (5) or fewer persons per machine or device at any time, and where the images so projected, produced or displayed are distinguished or characterized by the depicting of Specified Sexual Activities or Specified Anatomical Areas.

② *Adult Bookstore or Adult Video Store* means a commercial establishment that, as one of its business purposes or services, offers for sale or rental for any form of consideration_ any one or more of the following:

- a. Books, magazines, periodicals or other printed matter or photographs, films, motion pictures, video cassettes or video reproductions, slides, or any other • visual representations or media which depict or describe Specified Sexual Activities or Specified Anatomical Areas; or
- b. Instruments, devices, or paraphernalia that are designed for use in connection with Specified Sexual Activities.

A commercial establishment may have other business purposes or services that do not involve the offering for sale or rental of the material identified in paragraphs a or b, above, and still be categorized as an Adult Bookstore or Adult Video Store. The sale or rental of such material shall be deemed to constitute a business purpose or service of an establishment if it comprises thirty percent (30%) or more of the establishment's gross revenues, or if such materials occupy thirty percent (30%) or more of the floor area or visible inventory within the establishment.

(3) *Adult Cabaret* means a nightclub, bar, restaurant, or similar commercial establishment that regularly features:

- a. Persons who appear in a state of nudity;
- b. Live performances that are characterized by the exposure of Specified Anatomical Areas or by Specified Sexual Activities;
- c. Films, motion pictures, video cassettes, slides, other photographic reproductions or visual media that are characterized by the depiction or description of Specified Anatomical Areas or Specified Sexual Activities; or
- d. Persons who engage in lewd, lascivious or erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.

(4) *Adult Motel* means a hotel, motel or similar commercial establishment that:

- a. Offers accommodations to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, other photographic reproductions or visual media that are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas and has a sign visible from the public right of way that advertises the availability of any of the above;
- b. Offers a sleeping room for rent for a period of time that is less than twelve (12) hours; or
- c. Allows a tenant or occupant of a sleeping room to offer it for rent Or other consideration for a period of time that is less than twelve (12) hours.

(5) *Adult Motion Picture Theater* means a commercial establishment which, for any form of consideration, regularly and primarily shows films, motion pictures, video cassettes, slides, other photographic reproductions or visual media, that are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas.

(6) *Adult Theater* means a theater, concert hall, auditorium, or similar commercial establishment that regularly features a person or persons who appear in a state of nudity or that regularly features live performances that are characterized by exposure of Specified Anatomical Areas or by Specified Sexual Activities.

(7) *Escort* means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

(8) *Escort Agency* means a person or business association who furnishes, *offers* to furnish, or advertises to furnish escorts as one of its business purposes or services, for a fee, tip, or other consideration.

(9) *Nude Model Studio* means any place where a person who displays Specified Anatomical Areas is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration, but does not include an educational institution funded, chartered, licensed or recognized by the State of Michigan.

(10) *Sexual Encounter Center* means a business or commercial enterprise that, as one of its business purposes or services, offers for any form of consideration any of the following:

- a. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
- b. Activities between male and female persons or between persons of the same sex when one or more of the persons is in a state of nudity.

(I 1) *Specified Anatomical Areas* means:

- a. Less than completely and opaquely covered human genitals, pubic region, buttock or anus; or female breast immediately the top of the areola;.or
- b. Human male genitals in a discernible turgid state, even if completely and opaquely covered.

(12) *Specified Sexual Activity* means:

- a. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or breast;
- h. Sex acts, normal or perverted, actual or simulated, including, but not limited to intercourse, masturbation, oral copulation, or sodomy;
- c. Excretory functions as part of or in connection with any of the activities set forth in paragraph a or b above; or

- d. Sexual arousal or gratification using animals or violence, actual or simulated.

See. 42-202 General Requirements, Restrictions and Standards - Sexually Oriented Businesses.

(1) Sexually Oriented Businesses shall be permitted only as a special use and only in the B-2 General Business District and B-3 Service Business District.

(2) No sexually oriented business shall be permitted on a lot or parcel which is within one thousand (1,000) feet of a principal or accessory structure of another sexually oriented business.

(3) No sexually oriented business shall be located in any principal or accessory structure which already contains a sexually oriented business.

(4) No sexually oriented business shall be located on a lot or parcel within five hundred (500) feet of any parcel which is zoned Rural Preserve, Rural Residential, R-1, R-2, R-3, R-4., R-5, R-6 or within five hundred (500) feet of any Planned Unit Residential Development (PURD) or any Planned Unit Development (PUD) which contains residences.

(5) No sexually oriented business shall be located on a lot or parcel within five hundred (500) feet of a public park, library, school, child care facility, church, or place of worship.

(6) The proposed use for a sexually oriented business shall otherwise comply with all requirements of the Zoning District in which it is located; with all requirements of this Article IX of the Fruitport Charter Township Zoning Ordinance regarding off-street parking, loading, and storage areas; and with all requirements of this Zoning Ordinance pertaining to landscaping.

(7) Any sign or signs proposed for the sexually oriented business must comply with the requirements of Article IX of the Fruitport Charter Township Zoning Ordinance, and shall not include photographs, silhouettes, drawings, or pictorial representations of specific anatomical areas, specified sexual activities, or obscene representations of the human form, nor may such sign include any animated illumination or flashing illumination.

(8) Signs must be posted on both the exterior and interior walls of the entrances, in a location which is clearly visible to those entering or exiting the business, and using lettering which is at least two (2) inches in height, that:

- (a) "Persons under the age of 18 years are not permitted to enter the premises." and,
- (b) No alcoholic beverages of any type are permitted within the premises unless specifically allowed pursuant to a license duly issued by the Michigan Liquor Control Commission."

(9) No product for sale or gift, nor any picture or other representation of any product for sale or gift, shall be displayed so that it is visible by a person of normal visual acuity from the nearest adjoining roadway or adjoining property.

(10) All off-street parking areas shall be illuminated from at least ninety (90) minutes prior to sunset to at least sixty (60) minutes after closing. All exterior lighting shall be erected and hooded so as to shield the glare of such lights from spilling onto adjacent property.

(11) The use shall be screened from the view of any abutting property.

(12) The use shall be supported by certain infrastructure features, including paved roads, natural gas, and municipal water and sanitary sewer.

(13) No sexually oriented business shall be open for business prior to ten o'clock a.m. (10:00 a.m.), nor after ten o'clock p.m. (10:00 p.m.). However, employees or other agents, or contractors of the business may be on the premises at other hours for legitimate business purposes such as maintenance, preparation, record keeping, and similar purposes.

(14) Except in the case of an adult motel, any booth, room, or cubicle available for use by a patron of a sexually oriented business for the purpose of viewing any entertainment characterized by the showing or depiction of Specified Anatomical Areas or Specified Sexual Activity must comply with the following requirements:

- a. It must be handicap accessible to the extent required by the Americans with Disabilities Act or other applicable law;
- b. It must be unobstructed by any door, lock, or other entrance/exit control device;
- c. It must have at least one side which is totally open to a public, lighted aisle, so that there is an unobstructed view of any occupant at all times from the adjoining aisle;
- d. It must be illuminated so that a person of normal visual acuity could look into the booth, room, or cubicle from its entrance adjoining the public aisle and clearly determine the number of persons within; and
- e. It must have no holes or openings in any side or rear walls, unless such holes or openings are for the purpose of providing utilities, ventilation, or temperature control services to the booth, room or cubicle, or unless such holes or openings are otherwise required by building code requirements.

(15) The Planning Commission shall be required to hold a public hearing on a special land use application under this Section within forty-five (45) days after a complete special land use application has been received. The Planning Commission shall make its recommendation to the

Township Board regarding the special land use application within thirty (30) days after holding the public hearing. The Township Board shall hold a public hearing within thirty (30) days after receiving the Planning Commission's recommendation. The Township Board shall make a final determination regarding the special land use application within thirty (30) days after the public hearing. The decision of the Township Board regarding the special land use application may not be appealed to the Board of Appeals. Code 755 effective 03-05-06

ARTICLE V. SITE PLAN REVIEW

Sec. 42-221. Purpose.

It is the purpose of this section to require site plan review approval for certain buildings, structures and uses that can be expected to have a significant impact on natural resources, traffic patterns, adjacent parcels and the character of future development. The regulations contained herein are intended to provide and promote the orderly development of the township, safe and convenient traffic movement, both within a site and in relation to access street; the stability of land values, and investments, by preventing the impairment or depreciation of land values and development, by the erection of structures or additions or Nose alterations there to, without proper attention to setting or to unsightly or undesirable appearances; harmonious relationships of buildings, other structures and uses both within a site and/or adjacent sites; and the conservation of natural amenities and resources. (Ord. No. 578, § 6.1, eff. 5-2-1983)

Sec. 42-222. Approval required.

Site plan review approval is required as follows:

- (1) For those uses requiring special use permit review, as specified.
- (2) All land uses, excepting single-family detached dwellings and two-family dwellings. (Ord. No 578, § 6.2, eff. 5-2-1983)

Sec. 42-223. Procedures for site plan review.

(a) *Application.* Application for site plan review shall be submitted via the township clerk's office to the planning commission on a special form for that purpose; each application shall be accompanied by the payment of a fee in accordance with the duly adopted schedule of fees to cover the costs of processing the application. No part of any fee shall be refundable.

(b) *Data required in application.* Every application shall be accompanied by the following information and data:

- (1) Special form supplied by the township clerk's office, filled out in full by the applicant.
- (2) Site plan, plot plan, or development plan, drawn to a readable scale showing:
 - a. Property dimensions.
 - b. Size, shape and location of existing and proposed buildings and structures.
 - c. The location of parking areas, all parking spaces and driveways.
 - d. Existing public rights-of-way, and/or private easements.
 - e. Watercourses and water bodies, including surface drainageways.
 - f Existing significant vegetation
 - G A landscaping plan indicating locations of proposed planting and screening, fencing, signs and advertising features.
 - h. Zoning classification of abutting properties.
- (3) The planning commission shall review the site plan to determine compliance with permitted land use, density of development, general circulation, and other provisions of this chapter. The planning commission shall respond to the applicant within 60 days of filing, and if denied, shall cite reasons for denial. If approved, a certificate of site plan approval shall be issued to the applicant by the zoning administrator.

(Ord. No. 578, § 6.3, eff. 5-2-1983)

Sec. 42-224. Standards for site plan approval.

(a) All elements of the site plan shall be harmoniously and efficiently organized in relation to topography, the size and type of lot, the character of adjoining property and the type and size of buildings. The site will be so developed as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this chapter.

(b) The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal, and by topographic modifications which result in maximum harmony with adjacent areas.

(c) Special attention shall be given to proper site surface drainage so that removal of storm waters will not adversely affect neighboring properties.

(d) The site plan shall provide reasonable, visual and sound privacy for all dwelling units located therein. Fences, walks, barriers and landscaping shall be used, as appropriate, for the protection and enhancement of property and for the privacy of its occupants.

(e) All buildings or groups of buildings shall be so arranged as to permit emergency vehicle access.

(f) Every structure or dwelling unit shall have access to a public street, walkway or other area dedicated to common use.

(g) There shall be provided a pedestrian circulation system which is insulated as completely as reasonably possible from the vehicular circulation system.

(h) 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 thoroughfares shall be screened, by a vertical screen consisting of structural or plant materials no less than six feet in height.

(i) Exterior lighting shall be so arranged that it is deflected away from adjacent properties and so that it does not impede the vision of traffic along adjacent streets. Flashing or intermittent lights shall not be permitted.

(Ord. No. 578, § 6.4, eff. 5-2-1983)

Sec. 42-225. Action by planning commission.

The planning commission shall have the function, duty and power to approve or disapprove or to approve subject to compliance with such modifications or conditions as it may deem necessary to carry out the purpose of these regulations, the design and site plan of all proposed buildings or structures, or the development of the entire property, the specifications of all exits, entrances, streets, highways, or other means of ingress and egress, the proposed timing of construction, the proposed manner of dedication to the public or maintenance of same and the construction of appropriate screens or buffers.

(Ord. No. 578, § 6.5, eff. 5-2-1983)

Sec. 42-226. Modification of approval of site plan.

Once site plan approval has been granted by the planning commission, changes to the approved site plan shall require a resubmission of the amendments to the building inspector and approval of the planning commission.

(Ord. No. 578, § 6.6, eff. 5-2-1983)

Sec. 42-227. Financial guarantees.

In approving the site plan, the planning commission may require that a cash deposit, certified check, bond, or other financial guarantee acceptable to the township, of ample sum be furnished by the developer to ensure compliance with such requirements as drives, walks, utilities, parking, landscaping and the like. The financial guarantee shall be deposited with the township clerk at the time of issuance of the permit authorizing the project or activity. As work progresses, the township board may authorize a proportional rebate of the financial guarantee upon completion of significant phases or improvements.

(Ord. No. 578, § 6.7, eff. 5-2-1983)

Secs. 42-228-42-250. Reserved.

ARTICLE VI. DISTRICT REGULATIONS

DIVISION 1. GENERALLY

Sec. 42-251. Establishment of districts.

For the purpose of this chapter, the township is hereby divided into the following zoning districts, which shall be known by the following respective symbols and names:

Residential Districts Nonresidential Districts

- | | |
|---|---|
| R-1 Residential District | B-1 Convenience Business District |
| R-2 Residential District | B-2 General Business District |
| R-3 Residential District | B-3 Service Business District |
| R-4 Rural, Residential, Recreation, and SC-1 Shopping Center District | |
| Agricultural District | |
| R-5 Mobile Home Park District | M-1 Commercial/Industrial Park District |
| | NO-1 Natural Open District |
| | PUD Planned Unit Development District (Ord. |

No. 578, § 3.1, eff. 5-2-1983; Ord. No. 638, eff. 5-11-1992)

Sec. 42-252. Zoning district map.

The boundaries of the zoning district enumerated in section 42-251 are hereby established as shown on the Zoning Map-1974, amended 1983, Township of Fruitport, which accompanies this text, and which shall be as much a part of this chapter as if fully described herein. One of the Zoning Map-1974, as amended, is to be maintained and kept up-to-date by the township clerk, accessible to the public and shall be the final authority as to the current zoning status of properties in the township.

(Ord. No. 578, § 3.2, eff. 5-2-1983; Ord. No. 580, eff. 8-5-1983)

Sec. 42-253. Boundaries of districts.

Where uncertainty exists as to the boundaries of districts, as shown on the Fruitport Township Zoning Map-1974, amended 1983, the following rules shall apply:

- (1) Boundaries indicated as approximately following the centerlines of right-of-way of alleys, streets and highways shall be construed to follow such centerlines.
- (2) Boundaries indicated approximately following platted lot lines shall be construed as following such lot lines.
- (3) Boundaries indicated approximately following township limits shall be construed as following township limits.
- (4) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
- (5) Boundaries indicated as following rivers and streams shall be construed to follow the approximate centerline of such river and stream, and in the event of change in such river or stream, shall be construed as moving with the actual centerline.

- (6) Boundaries indicated as parallel to, or extensions of, features indicated in subdivisions (1) through (5) of this section shall be so construed. Distances not specifically indicated on the Fruitport Township Zoning Map-1974, amended 1983, shall be determined by the scale of the map.
- (7) Where the street or property layout existing on the ground is at variance with that shown on the zoning map, or where due to scale or lack of details there is uncertainty, contradiction, or conflict as to the intended location of any zoning district boundaries shown thereon, interpretation concerning the exact location of district boundary lines shall be determined, upon written application to the board of appeals.

(Ord. No. 578, § 3.3, eff. 5-2-1983)

Sec. 42-254. Vacated lands.

Whenever any street, alley or other public way is vacated by official action the zoning districts adjoining each side of such street, alley or public way shall be automatically extended to the center of such vacation and all area included in the vacation shall then and henceforth be subject to all appropriate regulations of the extended districts.

(Ord. No. 578, § 3.4, eff. 5-2-1983)

Sec. 42-255. Zoning of annexed areas.

Any area annexed to the Township of Fruitport shall, immediately upon such annexation, be automatically classified "when annexed by adoption of the resolution of annexation" by the township board. The planning commission shall recommend appropriate zoning for such an area within six months after the annexation becomes effective.

(Ord. No. 578, § 3.5, eff. 5-2-1983)

Secs. 42-256-42-275. Reserved.

DIVISION 2. R-1 RESIDENTIAL DISTRICT

Sec. 42-276. Purpose.

It is the purpose of the R-1 residential district to encourage the establishment and preservation of residential neighborhoods characterized by single-family buildings of a low density and where soil conditions and other physical features will support such development. (Ord. No. 578, § 7.1, eff. 5-24-1983)

Sec. 42-277. Permitted uses.

The following shall be permitted uses in the R-1 district:

- (1) Single-family detached dwellings.
- (2) Essential services.
- (3) Customary accessory uses provided such uses are clearly incidental to the principal permitted uses.

(Ord. No. 578, § 7.2, eff. 5-2-1983)

Sec. 42-278. Special uses.

The following shall be special uses in the R-1 district:

- (1) Schools.
- (2) Churches.
- (3) Home occupations.
- (4) Public parks and recreation.
- (5) Planned unit residential development.
- (6) Bed and breakfast dwellings. (Ord. No. 578, § 7.3, eff. 5-2-1983; Ord. No. 666, § 3, eff. 7-24-1995)

Sec. 42-279. Requirements.

The following shall be requirements in the R-1 district:

- (1) Minimum lot area: 15,000 square feet.
- (2) Minimum lot frontage: 100 feet at building line.
- (3) Maximum percentage of building coverage: 20 percent.
- (4) Yard setbacks:
 - a. Rear: 30 feet;
 - b. Side: Ten feet.
- (5) Setback from highways and roads: Setback from highways and roads is subject to section 42-579.
- (6) Maximum building height: 28 feet or two stories.
- (7) Signs: Signs are subject to article IX of this chapter. (Ord. No. 578, § 7.4, eff. 5-2-1983)

Secs. 42-280-42-295. Reserved.**DIVISION 3. R-2 RESIDENTIAL DISTRICT****Sec. 42-296. Purpose.**

It is the purpose of the R-2 residential district to encourage the establishment and preservation of residential neighborhoods characterized by one and two-family structures of medium density in areas served by paved roads, where soil conditions and other physical features will support such development.

(Ord. No. 578, § 8.1, eff. 5-2-1983)

Sec. 42-297. Permitted uses.

The following shall be permitted uses in the R-2 district:

- (1) Single-family detached dwellings.
- (2) Single-family designed duplexes.
- (3) Customary accessory uses provided such uses are clearly incidental to the principal permitted uses.
- (4) Essential services. (Ord. No. 78, § 8.2, eff. 5-2-1983)

§ 42-298

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Sec. 42-298. Special uses.

The following shall be special uses in the R-2 district:

- (1) Schools.
- (2) Churches.
- (3) Home occupations.
- (4) Townhouses up to four units per structure, semidetached.
- (5) Public and private institutional facilities.
- (6) Institutional or public uses.
- (7) Conversions of single-family structures to duplexes.
- (8) Planned unit residential development (PURD).
- (9) Bed and breakfast dwellings. (Ord. No. 578, § 8.3, eff. 5-2-1983; Ord. No. 666, § 4, eff. 7-24-1995)

Sec. 42-299. Requirements.

The following shall be requirements in the R-2 district:

- (1) Minimum lot area: 20,000 square feet, and in no case less than 10,000 square feet per unit.
- (2) Minimum lot frontage: 125 feet at building line.
- (3) Maximum percentage of building coverage: 20 percent.
- (4) Yard setbacks:
 - a. Rear: 30 feet;
 - b. Side: 12 feet.
- (5) Setback from highways and roads: Setback from highways and roads is subject to section 42-579.
- (6) Maximum building height: 28 feet or two stories.
- 7 Signs: Signs are subject to article IX of this chapter. (Ord. No. 578, § 8.4, eff. 5-2-1983)

Secs. 42-300-42-315. Reserved.

DIVISION 4. R-3 RESIDENTIAL DISTRICT

Sec. 42-316. Purpose. The R-3 residential district is designed to accommodate the township's need for medium- density dwellings in a safe and attractive living environment. This district also provides areas for offices and institutional structures as suggested in the land use plan. (Ord. No. 578, § 9.1, eff. 5-2-1983)

Sec. 42-317. Permitted uses.

The following shall be permitted uses in the R-3 district:

- (1) Multiple-family structures of three or four dwelling units per structure.
- (2) Customary accessory uses provided they are clearly incidental to the principal permitted use. (Ord. No. 578, § 9.2, eff. 5-24-1983)

Sec. 42-318. Special uses.

The following shall be special uses in the R-3 district:

- (1) Multiple-family structures.
- (2) Offices and banks.
- (3) Planned unit residential development.
- (4) Single-family dwellings.
- (5) M o t e l s . (Ord. No. 578, § 9.3, eff. 5-2-1983)

Sec. 42-319. Requirements.

The following shall be requirements in the R-3 district:

- (1) Minimum lot area: One acre, plus 10,000 square feet per unit after four units.
- (2) Minimum lot frontage: 150 feet.
- (3) Maximum percentage of building coverage: 20 percent.
- (4) Yard setbacks.
 - a. Rear: 50 feet;
 - b. Side: 20 feet.
- (5) Setback from highways and roads: Setback from highways and roads subject to section 42-579.
- (6) Maximum building height: 36 feet.
- (7) Signs: Signs are subject to article IX of this chapter. (Ord. No. 578, § 9.4, eff. 5-2-1983)

Secs. 42-320-42-335. Reserved.

DIVISION 5. R-4 RURAL RESIDENTIAL, RECREATION AND AGRICULTURE *Sec.*

42-336. Purpose.

The purpose of the R-4 rural residential, recreation and agriculture district is to provide large residential sites in rural areas which will not be served by public sewer and water services. This district is further intended to provide for the continuation of general farming and fosters certain recreational oriented activities and services where soil conditions and other physical features will support such development without depleting or destroying natural resources.

(Ord. No. 578, § 10.1, eff. 5-2-1983)

Sec. 42-337. Permitted uses.

The following shall be permitted uses in the R-4 district:

- (1) Single-family dwellings.
- (2) General farming.
- (3) Customary accessory uses provided such uses are clearly incidental to the principal permitted uses.
(Ord. No. 578, § 10.2, eff. 5-2-1983)

Sec. 42-338. Special uses.

The following shall be special uses in the R-4 district:

- (1) Golf courses.
- (2) Roadside stands for the sale of agricultural products produced on the premises.
- (3) Gun and skeet clubs.
- (4) Kennels.
- (5) Campgrounds licensed by the state on premises not less than 39 acres in size. (Ord. No. 578, § 10.3, eff. 5-2-1983; Ord. No. 666, § 2, eff. 7-24-1995)

Sec. 42-339. Requirements.

The following shall be requirements in the R-4 district:

- (1) Minimum lot area: Five acres, including any public or private easement for right-of-way purposes (e.g., for a public street, private street or any other easement for access purposes) ORD 752 effective 12/1/2005
- (2) Minimum lot frontage: 300 feet.
- (3) Maximum percentage of building coverage: 10 percent.
- (4) Yard setbacks:
 - a. Rear: 50 feet;
 - b. Side: 50 feet.
- (5) Setback from highways and roads: Setback from highways and roads is subject to section 42-579.
- (6) Maximum building height: 36 feet.
- (7) Signs: Signs are subject to article IX of this chapter. (Ord. No. 578, § 10.4, eff. 5-2-1983)

Secs. 42-340-42-355. Reserved.

DIVISION 6. R-5 MOBILE HOME PARK DISTRICT

Sec. 42-357. Purpose.

The R-5 mobile home park district allows the development of medium to high-density residential environments that are consistent with and promote the general health, safety, convenience and welfare of the citizens residing in mobile homes.

(Ord. No. 578, § 11.1, eff. 5-2-1983)

Sec. 42-357. Permitted uses.

The following shall be permitted uses in the R-5 district:

- (1) Mobile home parks.
- (2) Essential services. (Ord. No. 578, § 11.2, eff. 5-2-1983)

Sec. 42-358. Special uses.

The following shall be special uses in the R-5 district: none. (Ord. No. 578, § 11.3, eff. 5-2-1983)

Sec. 42-359. Requirements.

The following shall be requirements in the R-5 district:

- (1) Minimum area: 39 acres.
 - (2) Compliance with state law: All mobile home parks shall comply with the Mobile Home Commission Act, Act No. 419, Public Acts of 1976, being MCL 125.1101 et seq. and any amendatory acts and regulations that become applicable.
- (Ord. No. 578, § 11.4, eff. 5-2-1983)

Editor's note—Act No. 419 of the Public Acts of Michigan of 1976 was repealed by Act No. 96 of the Public Acts of Michigan of 1987. For current provisions see MCL 125.2301 et seq.

Secs. 42-360-42-365. Reserved.

DIVISION 7. R-6 RESIDENTIAL DISTRICT

Sec. 42-366. Purpose.

The R-6 residential district is intended to accommodate the township's needs for a medium-density, single-family dwelling in a safe and attractive living environment.
(Ord. No. 702, eff. 1-20-2000)

Sec. 42-367. Permitted uses.

The following shall be permitted uses in the R-6 district:

- (1) Single-family detached dwellings.
 - (2) Essential services.
 - (3) Customary accessory uses provided such uses are clearly incidental to the principal permitted uses.
- (Ord. No. 702, eff. 1-20-2000)

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Sec. 42-368. Special uses.

The following shall be special uses in the R-6 district: Planned unit residential development: five-acre minimum.

(Ord. No. 702, eff. 1-20-2000)

Sec. 42-369. Requirements.

The following shall be requirements in the R-6 district:

- (1) Minimum lot size: 40,000 square feet (approximately one acre) including easement and road.
- (2) Minimum lot frontage: 120 feet.
- (3) Minimum rear yard setback: 30 feet.
- (4) Minimum side lot: 20 feet.
- (5) Municipal sewer or water.
- (6)** Maximum building coverage: 25 percent.
- (7) R-4 district requirements applicable: If municipal water or sanitary sewer is not available to the parcel, the R-4 district requirements shall be applicable in this district. (Ord. No. 702, eff. 1-20-2000; Ord. No. 704, eff. 5-13-2000)

Secs. 42-370-42-375. Reserved.

DIVISION 8. B-1 CONVENIENCE BUSINESS DISTRICT

Sec. 42-376. Purpose.

The B-1 convenience business district is intended to provide for the orderly **and** attractive clustering, at appropriate locations, of retail business and service establishments which serve the day-to-day requirements of nearby residential areas.

(Ord. No. 578, § 12.1, eff. 5-2-1983)

Sec. 42.377. Permitted uses.

The following shall be permitted uses in the B-1. district:

- (1) Offices and clinics.
- (2) Grocery store, meat market, drug store, hardware store, delicatessen, shoe repair shop, tailor shop, barber or beauty shop, or Laundromat.

(Ord. No. 578, § 12.2, eff. 5-2-1983)

Sec. 42-378. Special uses.

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The following shall be special uses in the B-1 district:

- (1) Automotive service station.

- (2) Clothes cleaning or laundry pick-up station.
- (3) Automobile wash. (Ord. No. 578, § 12.3, eff. 5-2-1983)

Sec. 42-379. Requirements.

The following shall be requirements in the B-1 district:

- (1) Minimum lot area: 15,000 square feet.
- (2) Minimum lot frontage: 100 feet.
- (3) Maximum percentage of building coverage: 30 percent.
- (4) Yard setbacks:
 - a. Rear: 20 feet;
 - b. Side: Ten feet.
- (5) Setback from highways and roads: Setback from highways and roads is subject to section 42-579.
- (6) Maximum building height: Two stories or 20 feet.
- (7) Signs: Signs are subject to article IX of this chapter. (Ord. No. 578, § 12.4, eff. 5-2-1983)

Secs. 42-380-42-395. Reserved.

DIVISION 9. B-2 GENERAL BUSINESS DISTRICT

Sec. 42-396. Purpose.

The B-2 general business district is intended to provide for the orderly grouping of commercial structures which include the sale of commodities or performance of services for the entire township. (Ord. No. 578, § 13.1, eff. 5-2-1983)

Sec. 42-397. Permitted uses.

The following shall be permitted uses in the B-2 district:

- (1) Retail sales, furniture and appliances within an enclosed building.
 - (2) Food establishments without on sale liquor or entertainment and inside seating only.
 - (3) Professional offices.
 - (4) Clothes cleaning or laundry pick-up station.
- (Ord. No. 578, § 13.2, eff. 5-2-1983)

Sec. 42-398. Special uses.

The following shall be special uses in the B-2 district:

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- (1) Restaurants with liquor, entertainment and drive-in establishments.

- (2) Amusement enterprises, including billiard or pool hall, bowling alleys, video arcade and game rooms, dancehall, night club, skating rink, theater, if conducted wholly within a completely enclosed building.
 - (3) Banks, hotel/motels.
 - (4) Bars and lounges, if conducted wholly within a completely enclosed building.
 - (5) Automotive service station and car wash.
- (Ord. No. 578, § 13.3, eff. 5-2-1983)

Sec. 42-399. Requirements.

The following shall be requirements in the B-2 district:

- (1) Minimum lot area: 15,000 square feet.
- (2) Minimum lot frontage: 100 feet.
- (3) Maximum percentage of building coverage: 40 percent.
- (4) Yard setbacks:
 - a. Rear: 20 feet;
 - b. Side: Ten feet.
- (5) Setback from highways and roads: Setback from highways and roads is subject to section 42-579.
- (6) Maximum building height: Three stories or 35 feet.
- (7) Signs: Signs are subject to article 1X of this chapter. (Ord. No. 578, § 13.4, eff. 5-2-1983)

Secs. 42-400-42-415. Reserved.

DIVISION 10. B-3 SERVICE BUSINESS DISTRICT

Sec. 42.416. Purpose.

The B-3 service business district is intended to permit and control the development of preplanned areas for various compatible commercial and light industrial uses that enhance each other and further the progress of community development.
(Ord. No. 578, § 14.1, eff. 5-2-1983)

Sec. 42-417. Permitted uses.

The following shall be permitted uses in the B-3 district:

- (1) Wholesale and warehouse establishments, if conducted wholly within a completely enclosed building.

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- (2) Amusement enterprises, including billiard or pool hall, bowling alleys, dancehall, skating rink, theater (inside only).
- (3) Automobile, trailer sales and recreational vehicles. (Ord. No. 578, § 14.2, eff. 5-2-1983)

Sec. 42-418. Special uses.

The following shall be special uses in the B-3 district:

- (1) Wholesale and warehouse establishments with outside storage.
 - (2) Automotive/truck repair garage, body shop and wrecker service, automotive service station, or automobile wash.
 - (3) Drive-in movies.
 - (4) Transportation terminals.
 - (5) Contractor shops, carpenter, electrician, plumbing, heating and sheet metal shops.
 - (6) Building materials sales yard and retail lumber yard.
 - (7) Storage or sale of livestock feed or fuel.
 - (8) Stone and monument works.
 - (9) Light industrial uses that are compatible with the area.
 - (10) Any retail sales in conjunction with a primary B-3 use shall require a special use permit. It will be the responsibility of the applicant to show the use is compatible with adjoining B-3 uses.
- (Ord. No. 578, § 14.3, eff. 5-2-1983; Ord. No. 662, eff. 5-4-1995)

Sec. 42-419. Requirements.

The following shall be requirements in the B-3 district: (1) Minimum lot area: 22,500 square feet.

- (2) Minimum lot frontage: 150 feet.
- (3) Maximum percentage of building coverage: 40 percent.
- (4) Yard setbacks:
 - a. Rear: 20 feet;
 - b. Side: 15 feet.
- (5) Setback from highways and roads: Setback from highways and roads is subject to section 42-579.
- (6) Maximum building height: Three stories or 35 feet.
- (7) Signs: Signs are subject to article IX of this chapter. (Ord. No. 578, § 14.4, eff. 5-2-1983)

Secs. 42-420--42-435. Reserved.

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**DIVISION 11. SC-1 SHOPPING CENTER
DISTRICT**

Sec. 42-436. Purpose.

The SC-1 shopping center district is intended to provide for the orderly grouping of structures for a retail shopping center which includes the sale of commodities or performance of services for the entire community. (Ord. No. 578, § 15.1, eff. 5-2-1983)

Sec. 42-437. Permitted uses.

The following shall be permitted uses in the SC-1 district: none. (Ord. No. 578, § 15.2, eff. 5-2-1983)

Sec. 42-438. Special uses.

The following shall be special uses in the SC-1 district:

- (1) Food stuffs, sporting goods, hardware, pharmaceutical and allied products, florist shop, clothing and dry goods of all kinds, retail furniture, household appliances, electrical supplies.
- (2) Shops and stores for electricians, painters, plasterers, plumbers and similar artisans except metal workers.
- (3) Shops and offices for personal services, such as by way of illustration, but not limitation, barbershop, beauty shop, real estate office, doctors' and dentists' offices, decorators, photographers' offices, law offices and insurance sales or adjusting office.
- (4) For providing recreational facilities for the community such as theaters, bowling alleys and billiard halls.
- (5) For providing facilities such as restaurants, taverns and cafes. (For providing gasoline service stations and the sale of accessories.
(Ord. No. 578, § 15.3, eff. 5-2-1983)

Sec. 42-439. Requirements.

The following shall be requirements in the B-3 district:

- (1) Minimum lot area: Ten acres.
- (2) Minimum lot frontage: 300 feet.
- (3) Maximum percentage of building coverage: 25 percent.
- (4) Yard setbacks:
 - a. Rear: 50 feet;
 - b. Side: 25 feet each.

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- (5) Setback from highways and roads: Setback from highways and roads is subject to section 42-579.
- (6) Maximum building height: Three stories or 35 feet.

(7) Signs: Signs are subject to article IX of this chapter.

(8) *Additional requirements.*

- a. Buffer areas.* The total shopping center boundary, including the front, side and rear property lines, shall be landscaped and maintained to provide a permanent buffer strip at least 25 feet in width. The manner and materials for such landscaping shall be described in detail in the site plan.
- b. Lighting.* All lighting shall be arranged to reflect away from adjoining residential property and shall not create glare toward traffic on adjoining streets or highways.

(Ord. No. 578, § 15.4, eff. 5-2-1983)

Secs. 42-440-42-455. Reserved.

DIVISION 12. M-1 COMMERCIAL INDUSTRIAL PARK DISTRICT

See. 42-456. Purpose.

(a) The public interest is sometimes served by encouraging the proximity of uses which normally would be kept separate because they are classified in different zoning districts. It may be the case that certain commercial and industrial uses enhance each other and further the progress of community development. Conversely, the enforced separation of certain categories of use may not always be justified by evaluation of their performances and impacts. Thus, the intent of the M-1 commercial/industrial park district is to function as a kind of business planned unit development.

(a) The M-1 zoning district is intended to permit and control the development of preplanned areas for various compatible uses permitted by this chapter in other zoning districts and for other special uses not so permitted. In so doing, a degree of flexibility is allowed in the use, area, height, bulk and placement regulations for M-1 developments. However, it is also the intent of M-1 district to afford each type of use reasonable protection from encroachment or interference by other incompatible land uses, and that reasonable protection be afforded to uses adjacent to the **M-1** zoning district.

(c) All zoning pursuant to this division shall give due consideration to maintenance of reasonable conditions regarding emission and transmission. of injurious or obnoxious noise, vibration, gas, smoke, dust, dirt, litter, odor, light glare, traffic congestion, ease of police and fire protection, drainage, blighting influence, effect on surrounding property values, light and air, overcrowding of persons, sanitation, surface and groundwater quality, water supply and sewage disposal, general appearance and character of the area, and other similar considerations have an effect on the achievement of the purposes of this chapter.

(Ord. No. 578, § 16.1, eff. 5-2-1983)

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Sec. 42-457. Permitted uses.

The following shall be permitted uses in the M-1 district: none. (Ord. No. 578, § 16.2, eff. 5-2-1983)

Sec. 42-458. Special uses.

The following shall be special uses in the M-1 district:

- (1) Any permitted or special use in B-2 and B-3 districts.
- (2) Any manufacturing use or process including assembling, fabricating, altering, converting, finishing, processing, treating and packaging.

(Ord. No. 578, § 16.3, eff. 5-2-1983)

Sec. 42-459. Requirements.

The following shall be requirements in the M-1 district:

(1) Minimum lot area: One acres.

Ord 753 effective 12/22/2005

- (2) Minimum lot frontage, maximum percentage of building coverage, yard setbacks and maximum building height: Minimum lot frontage, maximum percentage of building coverage, yard setbacks and maximum building height shall be governed by the provisions of section 42-184 and are totally negotiable with the planning commission and the township board.

- (3) Signs: Signs are subject to the intent of article IX of this chapter and further governed by section 42-184.

(Ord. No. 578, § 16.4, eff. 5-2-1983)

Secs. 42-460-42-475. Reserved.

DIVISION 13. PUD PLANNED UNIT DEVELOPMENT

DISTRICT* Sec. 42-476. Purpose.

Traditional zoning, with its rigid separation of uses into different zoning districts, each having its own limitations with respect to uses permitted and the number, size and placement of building, has been recognized as being inappropriate to many medium and scale developments. Planned developments, which modify the territorial forms of zoning, permit a developer to secure advantages which can be passed on to the general public by virtue of more desirable and economical development. The PUD planned unit development district provides a controlled degree of flexibility in uses permitted, the number, size and placement of structures, and lot sizes, while also providing development standards to ensure that large scale development is well-planned, and not detrimental to the health, safety and welfare of the township. In providing this flexibility, it is the intent of this district to promote and encourage one or more of the following objectives:

- (1) Result in a more efficient development pattern, with shorter and less expensive streets and utility networks.

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- (2) Preserve existing natural features of the township, such as stands or trees, floodplain areas, wetlands, and other open spaces.
- (3) Encourage creativity and innovation in the design of development.

- (4) Promote attainment of the goals of the township comprehensive plan and other adopted plans applicable to specific areas of the township. It is not the intent of the PUD district to be used solely for the purpose of avoiding the imposition of standards and requirements of other zoning districts established by this chapter.

Sec. 42-477. Permitted uses.

. Subject to the procedures contained in this division pertaining to submittal and approval of a development plan for planned unit developments, land included in the planned unit development (PUD) district may be used for one or more of the following specified uses:

- (1) Any use as listed as either a permitted use or a special use in the B-1 convenience business district, B-2 general business district or the SC-1 shopping center district.
- (2) Multiple-family dwellings.
- (3) Single-family dwellings when they are part of a mixed use development but not the primary use. Ord 746 effective 4/30/2005

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Sec. 42-478. District requirements.

Development within a PUD district shall comply with the following requirements:

<i>Type of Use</i>	<i>Single-Family Residential</i>	<i>Multiple-Family Residential</i>	<i>Commercial / Office</i>
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Minimum lot size:	None	None	None
Minimum lot frontage:	None	None	None
Minimum required setbacks for buildings and parking areas:			
Front:	None	None	None
Side:	None	None	None
Rear:	None	None	None
Maximum building height:	None	None	None

Maximum development density: 5 dwelling units per acre of land* 14 dwelling units per acre of land* 14,000 sf floor area per acre of land*

Maximum site coverage by building and pavement area: 25 percent **55 percent** **75 percent**

- *Land area used in calculation of dwelling unit or floor area density shall equal the total land area within the boundaries of the PUD boundary, less public right-of-way and land included in easements for access to property .outside of the PUD boundary. Ord 746 effective 4/30/2005*

Section 2. District Requirements in PUD District. Section 42-478 of the Code of Ordinances, concerning district requirements in the PUD District, is restated in its entirety as follows.

Minimum required setbacks for buildings and parking areas:			
Front:	None	None	None
Side:	None	None	None
Rear:	None	None	None
Maximum building height:	None	None	None

Maximum development density: 5 dwelling units per acre of land* 14 dwelling units per acre of land* 14,000 sf floor area per acre of land*

Maximum site coverage by building and pavement area: 25 percent **55 percent** **75 percent**

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** Land area used in calculation of dwelling unit or floor area density shall equal the total land area within the boundaries of the PUD boundary, less public right-of-way and land included in easements for access to property .outside of the PUD boundary. Ord 746 effective 4/30/2005*

Sec. 42-479. Initiation of PUD zoning request.

Rezoning of land to the PUD district may be initiated by any of the following means:

- (1) By application of the owners or parties in interest to the land, and submittal of a preliminary development plan as specified in this division.
- (2) By initiation of a zoning ordinance amendment by either the planning commission or the township board, subject to the hearing and notice provisions required by law

Ord 760 effective 12/1/2006.

42-480. Qualifying conditions for placement of land in the PUD district and for eligibility for PUD plan approval.

(a) In order to be eligible for placement of land in the PUD district, both of the following conditions shall exist:

- (1) The land is either:
 - a.. Located within an area which is encouraged to be developed under PUD provisions in the Fruitport Charter Township Comprehensive Plan, or in a specific sub-area plan which has been adopted as an element of the comprehensive plan; or
 - b. The land requested to be placed into the PUD district has significant natural or historic features whose preservation will be enhanced through development under the PUD standards.
- (2) The PUD district shall constitute a contiguous land area no less than 40 acres in size. For purposes of this subsection (a)(2), land divided by a public right- of-way shall be deemed contiguous.

(b) In order to be eligible for approval of a development plan for planned unit development, both of the following conditions shall exist:

- (1) The development plan shall include a contiguous land area no less than 20 acres in size, undivided by a public right-of-way, and having a maximum length to width ratio of three to one.
- (2) All lots or parcels included within the planned unit development shall be under common ownership or control, or shall be under the ownership and control of individual owners acting collectively in a coordinated manner to develop multiple parcels under a single plan for development.

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A planned unit development or a PUD district which does not meet the above size requirements may still be approved if both of the following conditions exist:

(1) The objectives of Section 42-476 above are satisfied.

(2) The township board is specifically advised of the noncompliance with the size requirements and the reasons for the noncompliance when the township board considers the application. Ord. 746 effective 4/30/2005

Sec. 42.481. Preliminary development plan; application requirements.

(a) A preapplication conference may be held with the planning commission for the purpose of establishing general direction and eliciting feedback from the planning commission regarding the appropriateness, general content and design approach of a proposed planned unit development. An applicant desiring such a preapplication review shall request placement on the planning commission agenda by submittal of a request to the township clerk's office.

(b) The applicant shall submit a complete application for review of a preliminary development plan to the township clerk at least 21 days prior to review by the planning commission. Such application shall contain all of the following:

(1) Ten copies of a preliminary development plan encompassing all phases of the proposed PUD, prepared at a scale not exceeding one inch equals 50 feet, containing the following information:

- a. Name of development, applicant name, preparer name, if different, date of preparation, written and graphic scale, north arrow, property lines and dimensions, size of property in acres.
- b. Identification of zoning and use of all adjoining properties.
- c. Identification of existing natural features of the site, including predominant vegetative cover, major tree stands and existing drainageways.
- d. Identification of existing site improvements, including existing buildings or other structures, existing utilities with sizes shown, and any existing easements of record.
- e. Identification of existing site elevation contours at two-foot intervals.
- f. Identification of existing shoreline, if applicable, and existing 100-year flood hazard area bounds, if applicable.

Existing right-of-way lines, pavement edges and names of public streets; proposed layout of new public streets or private roads.

- h. Layout and typical dimensions of proposed lots; if the proposed PUD includes construction of buildings or other structure, identification of proposed footprints and dimensions, proposed number of stories; identification of uses proposed within the planned unit development and the acreage allotted to each use.
- i. Locations of proposed access driveways and parking areas.

If the planned unit development is to be constructed in phases, identification of the area and uses included in each phase, including floor area totals for each phase for commercial use and the number, type and density of proposed dwelling units within each phase for residential uses.

(2) A legal description of the land included in the planned unit development.

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- (3) A small-scale sketch of the vicinity of the subject property, locating the property in relation to properties, structures, streets and uses within 500 feet of the planned unit development.
- (4) A narrative statement describing the overall objectives of the planned unit development.
- (5) A completed application on a form supplied by the township.

(6) Payment of a fee which shall be established from time to time by resolution of the township board.

(c) The planning commission may waive any of the application requirements contained in subsection (b) of this section, except the application fee, if it is determined that such information is not necessary to determine compliance with the provisions of this division. (Ord. No. 638, § 16A.6, eff. 5-11-1992)

Sec. 42-482. Planning commission review of preliminary development plan; public hearing.

(a) Upon receipt of an application for approval of a preliminary development plan for planned unit development, the planning commission shall hold a public hearing concerning the proposed development, for the purpose of obtaining public and adjacent property owner comment on the proposed plan. Notice of the public hearing shall be given as specified in the zoning act for a special land use request. The notice shall:

- (1) Describe the nature of the proposed planned unit development.
- (2) Describe the property which is the subject of the application by both legal description and street address.

(3) State when and where a public hearing on the application will be held. (4) State when and where written comments will be received concerning the application.

(c) Following the public hearing, the planning commission shall review the preliminary development plan, and recommend to the township board that the preliminary plan be approved, approved with conditions, or denied. In the course of reviewing the plan, the planning commission may request the applicant to provide additional documentation or analysis, to assist in its consideration of the plan.

(d) Recommendations made by the planning commission shall be based upon its consideration of the standards for approval of a planned unit development contained in this division, and based upon the intent of this division. The recommendations of the planning commission shall be transmitted in written form to the township board, and a copy of such recommendations transmitted to the applicant.

(Ord. No. 638, § 16A.7, eff. 5-11-1992)

Sec. 42-483. Township board review of preliminary development plan.

(a) Following action on the preliminary plan by the planning commission, the preliminary development plan and request for rezoning to the **PUD** district shall be considered by the township board.

(b) The township board shall consider the report of the planning commission, comments from adjoining property owners and the public and the standards for approval of planned unit development contained in this chapter, and shall take action to

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approve, approve with conditions or deny approval of the preliminary development plan. Prior to taking action, the township board may hold a public hearing. If the township board holds a public hearing, notice thereof shall be given in the same manner as specified in 42-482(a). In taking action of the plan, the township board shall state its conclusions regarding the request, and the basis for its decision. Any conditions imposed on an approval shall conform with the Zoning Act and shall be related to conformance with the standards for approval contained in this chapter.

(c) Approval of the preliminary development plan by the township shall constitute an amendment of the zoning map

to place the land contained within the boundary of the preliminary development plan in the PUD district.

(d) Approval of a preliminary development plan for planned unit development and rezoning to the PUD district by the township board shall confer upon the applicant for a period of one year the right to submit a final development plan for the planned unit development, or for any phase of the planned unit development, as identified on the preliminary plan. (Ord. No. 638, § 16A.8, eff. 5-11-1992)

Sec. 42.484. Final development plan; application requirements.

Application for approval, of a final development plan for planned unit development may be requested for the entire **PUD**, or for one or more sequential phases, provided the phases conform to the provision for phased development contained in the preliminary development plan approval. Application shall be made by submitting all of the following information to the planning commission:

- (1) Legal description of the land included in the planned unit development.
- (2) A small-scale sketch of the vicinity of the subject property, locating the property in relation to properties, structures, streets and uses within 500 feet of the planned unit development.
- (3) A narrative statement describing the overall objectives of the planned unit development.
- (4) Ten copies of a final development plan, containing all of the information required of a preliminary development plan, and in addition thereto, all of the following:
 - a. Proposed site elevation contours at two-foot intervals, superimposed over existing site elevation contours at two-foot intervals.
 - b. Proposed landscaping, including location, quantity, size and species of all plant materials to be installed, proposed ground cover, identification of areas to be covered by underground irrigation system, and identification of significant existing plant materials to be removed or retained on the site.
 - c. Layout and dimensions of all existing and proposed driveways, sidewalks, curb openings and parking areas; parking areas shall include layout of proposed parking spaces and aisles, with typical dimensions, total number of spaces and method by which required number of spaces was calculated noted.
 - d. Existing and proposed lot lines, with bearings and dimensions.
 - e. Size and location of existing and proposed water and sewer lines, hydrants, natural gas, electric, telephone, cable television and any other proposed utility lines.
 - f. Location, height and design of proposed fencing or walls.
 - g. Location, height and style of proposed exterior lighting.
 - h. Location, height, size and method of illumination of proposed signage.

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- (5) Typical elevation sketches, with identification of facade materials, of all sides of each principal building type included in the planned unit development, drawn at a scale of one inch equals eight feet.

A drainage plan, prepared and scaled by a licensed professional engineer, identifying measures to be used for control and disposal of stormwater runoff from the PUD site. The drainage plan shall identify sizes and dimensions of all drainage structures, and the method, assumptions and calculations used in design of drainage facilities shall be provided.

- (7) A traffic assessment, containing the following information:

- a. Description of existing daily and peak-hour traffic volumes on adjacent streets.
 - b. Projected vehicle trip generation for the proposed uses in the PUD, for morning and afternoon peak hours, as well as average daily traffic.
 - c. Distribution of projected traffic generated by the PUD onto the adjacent street network.
 - d. Analysis of the impact of projected traffic on the capacity and level of service at all roadway sections and intersections where 20 percent or more of the projected traffic is comprised of traffic generated by the proposed **PUD**.
- d. Analysis of mitigation measures needed to serve projected traffic volumes.

(8) Summary data scheduled containing the following:

- a. Total gross site area.
- b. Area of existing proposed right-of-way.
- c. Area and percentage of site covered by buildings.
- d. Area and percentage of site covered by pavement.
- e. Area and percentage of total open space.
- f. For residential development, number, sizes and bedroom mix of proposed dwelling units.
- g. For commercial development, total floor area for each category of commercial use.

(9) A completed application on a form supplied by the township.

(10) Payment of a fee which shall be established from time to time by resolution of the township board.
(Ord. No. 638, § 16A.9, eff. 5-11-1992)

Sec. 42-485. Planning commission review of final development plan.

(a) The planning commission shall review the final development plan and take action to approve, approve with conditions or deny the final development plan for the planned unit development. The plan shall be approved by the commission only if it complies with all of the standards contained in section 42-486. The commission, in acting on the plan, shall state its conclusions with respect to the plan, the basis for its decision and any conditions imposed on an approval.

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(b) Conditions imposed on approval of a planned unit development shall be reasonable conditions necessary to ensure that public services and facilities affected by the planned unit development will be capable of accommodating increased service and facility loads caused by the planned unit development, 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.

(Ord. No. 638, § 16A.10, eff. 5-11-1992)

Sec. 42-486. Standards for approval of planned unit development.

The following standards shall govern the approval of a preliminary development plan for planned unit development by the planning commission and township board, and final development plan approved by the planning commission. The planning commission and township board shall approve a planned unit development only if it complies with each of the following standards:

- (1) The final development plan is consistent in all respects with the preliminary development plan approved by the township board, including any conditions imposed on the preliminary development plan approval. Changes in any of the following features of the PUD shall require resubmittal of a revised preliminary plan for review by the planning commission and the township board:
 - a. Addition of uses different from those included in the preliminary plan.
 - b. Increases in the size, height or number of buildings.
 - c. For residential development, any increase in number of dwelling units.
 - d. Any change deemed by the planning commission to be inconsistent with the preliminary plan previously approved by the planning commission and township board.
- (2) The plan conforms with the policies, goals, guidelines and recommendations concerning land use, vehicular access and circulation, pedestrian circulation, building placement and design, landscaping, signage and amenities contained in the comprehensive plan, and any sub-area plan which has been adopted by the planning commission as an element of the comprehensive plan.
- (3) The proposed planned unit development is consistent with and promotes the intent of this division and chapter.
- (4) If the PUD contains more than one type of use, the uses are arranged in a manner, and with use of appropriate types of buffers, so as not to result in adverse impacts of one use upon another, and so as to create a logical relationship of one use to another.
- (5) The proposed planned unit development is compatible with surrounding uses of land, the natural environment and the capacities of public services and facilities affected by the planned unit development.
- (6) The planned unit development is consistent with the public health, safety and welfare of the township.

Safe and efficient ingress and egress has been provided to the property, with particular reference to pedestrian safety and convenience, traffic flow and control and access in case of fire or other emergency.

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- (7) The design and placement of buildings and other structures, parking, lighting, signs, refuse storage, landscaping and other elements of the proposed planned unit development are compatible with surrounding properties and properties within the planned unit development.

(Ord. No. 638, § 16A.11, eff. 5-11-1992)

Sec. 42-487. Conformity with PUD required; PUD agreement.

- a. Following approval of the PUD, no construction on the land included in the planned unit development shall be undertaken, unless such construction is in conformity with the final development plan for the planned unit development, and any conditions imposed in conjunction with the approval of the planned unit development by the township board.
- (b) Prior to initiation of any portion of the planned unit development, the applicant shall enter into a written agreement with the township, in a form acceptable to the township. The agreement shall:
- (1) Set forth the conditions upon which the approval is based, with references to the approved final development plan.
 - (2) Describe all improvements to be constructed as part of the planned unit development, including any specific requirements related to the timing or sequencing of improvements.
 - (3) Establish the remedies of the township in the event of default by the applicant in carrying out the planned unit development.
 - (4) Be binding upon all successors in interest to the applicant.
- (c) If the PUD includes service drives or private roads or both, then maintenance agreement must be included with the PUD agreement. The maintenance agreement shall be in a form satisfactory to the township and shall provide that all service drives and private roads shall be privately maintained and repaired to assure safe travel for all emergency vehicles at all times and during all seasons of the year. This maintenance agreement shall be recorded with the Muskegon County Register of Deeds and shall be a recordable covenant running with the land, binding on all property served by and with an interest in any covered service drive or private road. The maintenance agreement shall include the following.
- (1) Financing improvement and/or maintenance. The maintenance agreement shall include a workable method of initiating and financing any improvement or maintenance of all service drives and private roads as necessary to keep them in reasonably good, usable and safe condition.
 - (2) Method of apportioning costs. The maintenance agreement shall include a workable method of apportioning the cost of improvement or maintenance of all service drives and private roads, together with a method to enforce payment by providing that any amount remaining unpaid by the owner of a lot serviced by a service drive or private road shall become a lien against that lot.
 - (3) Township's option to improve and/or maintain. The maintenance agreement shall include a procedure whereby the township may, in its discretion but without obligation, improve or maintain all service drives and private roads and assess the costs thereof to the owners of lots serviced by a service drive or private road in a reasonably proportionate manner, such as road frontage, without the need for any additional petition for the improvements or maintenance from the lot owners.

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(4) Non-interference provision. The maintenance agreement shall include a provision that the owner of each lot using a service drive or private road shall not prohibit, restrict, limit or in any way interfere with normal ingress and egress and other use of the service drive or private road by the owners of the remaining lots with an interest in the service drive or private road, including family members, guests, trades people and others with legitimate purposes who are traveling to or returning from any of the lots with an interest in the service drive or private road.

(5) Indemnity provision. The maintenance agreement shall include a provision that all of the owners of lots with an interest in a service drive or private road shall indemnify the township from any liability whatsoever arising from the purchasing, planning, construction, inspecting, repairing, maintaining, using and dedicating of the service drive or private road.

(d) The township board may require the PUD agreement to include a cash deposit,

(a) certified check, surety bond, or other financial guarantee acceptable to the township, of adequate sum, to be furnished by the developer to ensure the timely completion of those improvements deemed to be of public importance and benefit, as allowed by the township zoning act, including but not limited to paving of drives, parking areas and pedestrian walkways; utilities; landscaping; erosion control measures; and drainage improvements. The financial guarantee shall be deposited with the township clerk prior to issuance of the permit authorizing the project or activity. As work progresses, the township board may authorize a proportional rebate of the financial guarantee, upon completion of significant phases of the required improvements. Ord 746 effective 4/30/2005

Sec. 42-488. Changes to an approved planned unit development.

(b) No changes to an approved final development plan for a planned unit development shall be made, except by mutual agreement between the applicant and the planning commission. Revisions to an approved final development plan, except those determined to be minor under the provisions of subsection (b) of this section, or to any conditions imposed on an approval shall be processed in the same manner as an application for approval of a final development plan, as specified in this division.

(c) Minor changes to the final development plan may be permitted by the zoning administrator, subject to the following limitations:

1. For residential buildings, the size of structures may be reduced by five percent or increased by five percent, provided that there shall be no increase in the number of dwelling units.
2. Gross floor area of nonresidential buildings may be reduced by five percent or increased by five percent, or not greater than 5,000 square feet, whichever is less.

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3. Floor plans may be revised, if consistent with the character of the use.
4. Horizontal and vertical elevations may be altered up to five percent.
5. Relocation of a building by up to five feet, unless a specific setback or separation distance is imposed as a condition of approval.
6. Areas designated as "not to be disturbed" may be increased in area.

7. Plans materials included in the final development plan may be substituted by similar types of landscaping on a one-to-one or greater basis.
8. Improvements to access and circulation systems, such as addition of acceleration/ deceleration lanes, boulevards, curbing, pedestrian/bicycle paths.
9. Changes in exterior materials, provided that any changes provide for use of materials of higher quality than those originally proposed, as determined by the zoning administrator.
10. Reduction in size or increase in setback of signs.

11. Internal rearrangement of parking spaces in a parking lot, provided the total number of parking spaces provided is not reduced, and provided that circulation hazards or congestion are not created by the redesign.

(Ord. No. 638, § 16A.13, eff. 5-11-1992)

Sec. 42-489. Time limit for approved planned unit development.

(a) For each approved planned unit development, construction shall be commenced and shall proceed toward completion within one year from the date of the approval of the planned unit development by the township board. If the zoning administrator determines this requirement is not being complied with, the zoning administrator shall notify the owner/ applicant in writing at least 14 days prior to the expiration of this one-year time period.

(b) The owner or applicant of the planned unit development may apply to the planning commission for one extension of the oral approval for an additional term of one year. The commission may, in its discretion, authorize this extension. In considering such authorization, the commission shall consider the following standards:

- (1) The planned unit development has encountered unforeseen difficulties beyond the reasonable control the owner/applicant.
- (2) The planned unit development has a likelihood of now proceeding.

(c) If the planned unit development has not commenced and proceeded meaningfully towards completion at the end of the initial one-year time period, or the one permitted extension thereof, then the planned unit development approval shall be automatically invalid and void.

(Ord. No. 638, § 16A.14, eff. 5-11-1992)

Secs. 42-490-42-550. Reserved.

ARTICLE VII. SUPPLEMENTARY DISTRICT REGULATIONS

DIVISION 1. GENERALLY

Sec. 42-551. Application.

Except as hereinafter specified, no building, no structure or premises shall hereinafter be used or occupied, and no building or part thereof or other structure shall be erected, raised, moved, placed, reconstructed, extended, enlarged or altered, except in conformity with the regulations herein specified for the district in which it is located.

(Ord. No. 578, § 4.1, eff. 5-2-1983)

ZONING TEXT AMENDMENT ORDINANCE

Sec. 42-552 Accessory buildings and structures.

All accessory buildings shall conform to the following requirements, except farm buildings used for agricultural purposes in an agricultural district.

(a) Residential accessory buildings and structures.

(1) Accessory buildings may be erected in any residential zoning district only as an accessory to an existing residence (which includes being built simultaneously with the construction of the residence).

(2) Accessory buildings may not be constructed on a lot without a principal structure.

(3) If the accessory building is integrated into the permitted principal building, it shall comply in all respects with the requirements of this chapter that apply to the permitted principal building, including but not limited to setback requirements, unless specifically stated to the contrary in this section.

(4) No detached private garage is allowed if a principal structure has an attached garage. In the event that the principal structure does not have an attached garage, one detached private garage may be constructed on the lot, in compliance with the following.

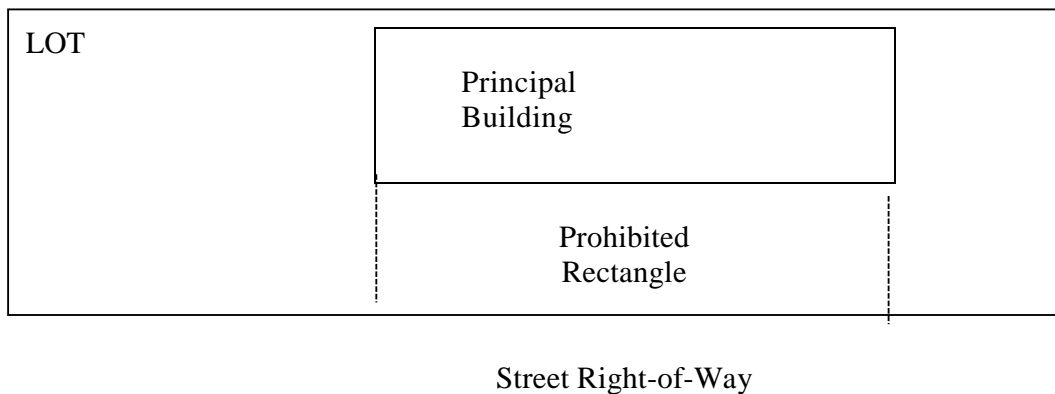
a. For the purpose of this section, a "detached private garage" is considered to be a building which meets the definition of "private garage" in this chapter, and which is structurally separate from the principal structure on the lot.

b. A detached private garage shall be located in compliance with all applicable location and setback requirements, including the location requirements in subsection (a)(10) of this section, and setback requirements for residential accessory buildings in subsection (a)(11) of this section; and

- c. The total floor area of a detached private garage on the lot shall be no more than 1,000 square feet.
- (5) Residential accessory buildings are permitted for such uses as: storage of utility trailers, personal vehicles, recreation vehicles or equipment, yard maintenance equipment and machinery, and recreational equipment; greenhouses or workshops for personal use, enjoyment, and pleasure of the residents of the principal structure; and other uses commonly considered accessory to residential uses.
- (6) All uses for accessory buildings must be accessory to the use of the residence. No accessory building or structure shall be used in the operation of a home occupation or business or include residential or living quarters for human habitation.
- (7) Number of accessory buildings (excluding any detached private garage).
- a. In the R-1 through the R-6 zoning districts, on lots which are less than one acre in size, one residential accessory building is allowed.
- b. In the R-1 through the R-6 zoning districts, on lots which are one acre or greater in size, two residential accessory buildings are allowed.
- (8) Size requirements. The total floor area of a residential accessory building or buildings, excluding any detached private garage, shall be dependent on the lot size. Specifically, the total floor area of all buildings on a lot shall comply with the maximum percentage of building coverage allowed in the relevant district.
- The term "total floor area as used in this subsection, means the total useable floor area of the ground floor of all residential accessory buildings situated or permitted on a lot, excluding any detached private garage.
- (9) Height restrictions.
- a. The height of the accessory building shall be measured from the average grade level to the top of the roof, for the purposes of this subsection.
- b. In all residential zoning districts, on lots of less than five acres in area, no accessory building shall exceed 24 feet in height.
- c. In all residential zoning districts, on lots of five acres or more in area, no accessory building shall exceed 35 feet in height.
- (10) Location requirements.

a. Accessory buildings, including detached private garages, are allowed in the front yard, but not in the prohibited rectangle as described below. Specifically, an accessory building may not be located within the rectangle formed by the principal building, the street right-of-way, and perpendicular lines drawn from the two front corners of the principal building to the street right-of-way (the "prohibited rectangle"). See Diagram (a)(10)a. For curved streets or other irregular situations, the building inspector shall locate the rectangle in such a way as to prevent an accessory building from being directly between the principal building and the street right-of-way.

Diagram (a)(10)a



b. Accessory buildings are allowed in the rear yard as long as the total floor area of all accessory buildings on the lot does not exceed 25 percent of the required rear yard.

c. An accessory building shall not be located closer than 10 feet any principal structure.

(11) Setbacks.

a. Setbacks shall be measured from the foundation line of the accessory building

b. Accessory buildings shall be set back in accordance with the following table:

Accessory Building Size	Setback From:		
	Principal's	Side Lot Line	Rear Lot Line
Less than 150 feet	10 feet	5 feet	5 feet
150 to less than 600 square feet	10 feet	10 feet	10 feet
600 square feet or greater	10 feet	15 feet	15 feet

c. No accessory building, may be located closer than 25 feet to the edge of any street right-of-way, public or private.

(12) Appearance.

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a. Any accessory building larger than 1,000 square feet and located in any residential district where the total lot size is one acre or less must be aesthetically compatible in design and appearance with the principal building and other neighboring principal buildings.

b. When a difference in design and appearance shall be determined by the building inspector upon review of the plans submitted, an aggrieved party may appeal to the zoning administrator within 60 days from the receipt of the notice of the building inspector's decision. Finally, if not satisfied with the decision by the zoning administrator, the aggrieved party may pay the applicable fees and appeal to the board of appeals.

(b) Nonresidential accessory buildings and structures.

(1) Accessory buildings in nonresidential zoning districts, and accessory buildings in residential zoning districts but for nonresidential uses, shall be subject to compliance with this subsection and to site plan review by the Planning Commission.

(2) Accessory buildings may be erected in any nonresidential zoning district only as an accessory to an existing principal structure (which includes being built simultaneously with the construction of the principal structure).

(3) Accessory buildings and structures may not be constructed on a lot without a principal structure.

(4) If the accessory building is integrated into the permitted principal building, it shall comply in all respects with the requirements of this chapter that apply to the permitted principal building, including but not limited to setback requirements, unless specifically stated to the contrary in this section.

(5) No accessory building may cause the accumulation of the principal building and any other accessory buildings on the lot to exceed the amount of building coverage allowed for that lot in that zoning district.

(6) No accessory building or structure shall exceed the permitted height for principal buildings in the zoning district in which it is located.

(7) Accessory buildings or structures are not allowed in any front yard or any required side yard. Accessory buildings are allowed in the rear yard as long as the total floor area of all accessory buildings on the lot does not exceed 25 percent of the required rear yard.

(8) Setbacks are measured from the foundation line of the accessory building. The following setback requirements must be met.

a. Accessory buildings and structures shall meet all setback requirements for the zoning district in which they are located.

A detached accessory building shall not be located closer than allowed by the applicable building code to any principal building or to another accessory building. Ord 766 effective 11/25/2007

Sec42-554. Area or space required.

No lot, yard, parking area or other space shall be so reduced in area or dimension as to make such area or dimension less than the minimum required under this chapter. If already less than the minimum required under this chapter, such area or dimension shall not be further reduced.

(Ord. No. 578, § 4.2(3), eff. 5-2-1983)

Sec. 42-555. Basement and partially completed dwellings.

No building shall be designed to use any portion of a basement as defined by this chapter as a dwelling. The occupancy of a partially completed building as a dwelling unit is prohibited. (Ord. No. 578, § 4.2(4), eff. 5-2-1983)

Sec. 42-556. Change of use or alteration.

Any change in the basic use of an existing structure or any alteration of an existing structure shall be deemed to be the erection of a new structure requiring the issuance of a building permit and the compliance to all provisions of this chapter.

(Ord. No. 578, § 4.2(5), eff. 5-2-1983)

Sec. 42-557. Corner lot.

Where a lot is bounded by two intersecting streets, the front yard requirements shall be met on one abutting street only; provided that no portion of the lot within 30 feet of the side lot line of any adjoining property may be utilized unless the front yard requirement for the adjoining property is met. Either street frontage may be designated by the owner as the front street lot line (designation to appear on the building permit), irrespective of the location of the building entryway.(Ord. No. 578, § 4.2(6), eff. 5-2-1983)

Sec. 42-558. Dwelling in the rear.

No dwelling shall be constructed, altered or moved in the rear of a building situated on the same lot, nor shall any building be constructed in front of or moved in front of a dwelling situated on the same lot.

(Ord. No. 578, § 4.2(7), eff. 5-2-1983)

Sec. 42-559. Drainage courses.

(a) Statement of purpose. This section is established to promote the public health, safety and general welfare of the township by regulating and restricting the development of areas along or in drainageways, channels, streams and creeks. The regulations which follow are intended to protect and to preserve the location, character and extent of such drainageways, channels, streams and creeks, and to protect persons and property from the hazards of development in areas which may be subject to inundation. The surface water drainage problem areas are depicted on the Fruitport Township Depth to

(b) Ground Water Map #1. Those areas less than five feet to groundwater will require an on-site impact study of natural and manmade drainage patterns. Factors to be considered in the impact study include: existing and proposed topography, elevation of streets, existing drainage swales, direction surface drainage flows, location of structures on the lot and adjacent lots, proposed driveways, culverts, fills and whether basements are feasible.

(c) *General regulations.*

- (1) No building or structure shall be erected within any area herein described as a drainage course. For the purpose of this section, a drainage course shall include any areas such as drainageways, channels, streams and creeks, designated as such on the zoning map and shall further include any area designed or intended for use for drainage purposes as shown by an on-site impact study of natural and manmade drainage patterns, undertaken by the zoning administrator, his designee or the Muskegon County Drain Commissioner, prior to the issuance of any certificate of zoning compliance, or special use permit.
- (2) No filling of land shall be permitted within a drainage course, or on any lands within 200 feet, or more than 200 feet when so designated on the zoning map, of the centerline of such drainage course, or after an on-site impact study of natural and manmade drainage patterns has been conducted by the zoning administrator, his designee, county drain commissioner, or Muskegon County Act 347 Enforcing Agent, except upon issuance of a certification of zoning compliance by the zoning administrator or his designee that such filling will not obstruct the flow of water or otherwise reduce the carrying capacity of such drainage course, or impair the design and character of such drainage course.
- (3) No excavating of land shall be permitted within a drainage course, or on any lands within 200 feet, or more than 200 feet when so designated on the zoning map, of the centerline of such drainage course, or after an on-site impact study of natural and manmade drainage patterns has been conducted by the zoning administrator, or his designee, county drain commissioner, or Muskegon County Act 347 Enforcing Agent, except upon issuance of a certificate of zoning compliance by the zoning administrator or his designee that such excavating will not divert water from the established channel and will not cause flooding of lands outside such drainage course, will not cause any erosion, and will not otherwise impair the design and character of such drainage course.
- (4) No relocation, enclosure or bridging of a drainage course shall be permitted until issuance of a certificate of zoning compliance by the zoning administrator or his designee that the location, character and extent of such relocation, enclosure or bridging of the drainage course shall be in the public interest.
- (5) The zoning administrator or his designee may require the submittal of such information which he considers essential for the proper enforcement of the above regulations. (Ord. No. 578, § 4.2(8), eff. 5-2-1983)

Sec. 42-560. Essential services and institutional uses.

Essential services may be located in any zone upon approval by the planning commission. Institutional uses are permitted in any zone following the review and approval of a site

development plan by the planning commission prior to the issuance of a building permit. Before approval of such plan, the planning commission shall determine that the physical layout and relationship of improvements will not adversely affect existing or potential adjacent primary permitted uses. If the planning commission determines that an institutional use may have an adverse effect upon adjacent conforming land uses or that it conflicts with the intent of the master plan, it shall refer the matter to the board of appeals for determination as in a variance request.

(Ord. No. 578, § 4.2(9), eff. 5-2-1983)

Sec. 42-561. Existing platted lots.

(a) Any parcel of real property of record in single ownership at the time of adoption of this chapter that fails to comply with the area and lot size requirements of this chapter may be used for a permitted use provided 80 percent of all lot requirements are complied with. Any such parcel of record in common ownership with adjacent parcels of record on or before the effective date of this chapter may be used as separate lots if each such parcel contain 80 percent of the required lot area. Where such parcels in common ownership do not comply with 80 percent of the required lot area, they shall be combined or redivided to conform to this chapter. The board of zoning appeals may grant a variance to this provision to conform to established neighborhood character.

(b) Any lot of record in a recorded and approved subdivision may be used for a single-family dwelling provided all yard area can be maintained.

(Ord. No. 578, § 4.2(10), eff. 5-2-1983)

Sec. 42-562. Height exceptions.

The height requirements of all zones may be exceeded by parapet walls not over four feet in height, chimneys, silos and farm barns, television and radio antennas, cupolas, spires or other ornamental projections or water towers. In the manufacturing zone, chimneys, cooling and fire towers, elevator buildings and bulkheads, roof storage tanks and other necessary appurtenances are permitted above the height limitations provided they are located the same distance as their height from any adjoining property line.

(Ord. No. 578, § 4.2(11), eff. 5-2-1983)

Sec. 42-563. Major street lot requirements.

Any other provisions notwithstanding, the following additional requirements shall apply to any lot or parcel of land which abuts a major street as shown upon the land use plan of the township:

(1) *Lot area.* The lot area requirements of such lots shall be computed exclusive of any area within 33 feet of the centerline of such major street.

(2) *Setback.*

a. *Yard.* The front yard setback shall be provided on such street, any other provision notwithstanding. Further, such front yard setback shall be measured from a line which is parallel to the centerline of such street.

b. *Corner.* Where two such major streets intersect, no structure or planting of any kind over 20 inches in height above curb level shall be erected on a corner lot within a triangle having its apex at the intersection of the rights-of-way lines and having equal legs of 80 feet along the rights-of-way.

(Ord. No. 578, § 4.2(12), eff. 5-2-1983)

Sec. 42-564. Minor street lot requirements.

Any other provisions notwithstanding, the following additional requirements shall apply to any lot or parcel of land which abuts a street not designated as a major street upon the master plan of the township:

- (1) *Lot area.* The lot area requirements of lots shall be computed exclusive of any area within 33 feet of the centerline of any street.
- (2) *Setback.*
 - a. *Yard.* The front yard and side street side yard shall be measured from a line which is 33 feet from and parallel to the centerline of any street.
 - b. *Corner.* Where two streets intersect, no structure or planting, except deciduous trees, more than 24 inches above curb level shall be erected or maintained on a corner lot within a triangle having its apex at the intersection of the rights-of-way lines and having equal legs of 20 feet along the rights-of-way. (Ord. No. 578, § 4.2(13), eff. 5-2-1983)

Sec. 42-565. Mixed occupancy.

Before issuing a building permit for any premises intended or used for a combination of dwelling and commercial occupancy, the building inspector shall request a report from the fire chief and the health officer as to any hazards that exist or may be expected to exist and their recommendations as to additional provisions necessary in the interest of safety or health. Such recommendations shall be complied with before issuance of a permit. (Ord. No. 578, § 4.2(14), eff. 5-2-1983)

Sec. 42-566. Mobile homes and camping dwellings.

The use of campers, tents, mobile homes of less than 40 feet in length or similar camping dwellings as dwellings is prohibited in all zones. The use of mobile homes of 40 feet or more in length as dwellings is also prohibited except under the following conditions:

- (1) As an accessory use in a licensed mobile home court.
- (2) As a principal use in the R-5 district as restricted therein. (Ord. No. 578, § 4.2(15), eff. 5-2-1983)

Sec. 42-567. Occupancy.

No new building, new portion of a building or portion of a building vacated to permit alterations shall be occupied or reoccupied until an occupancy permit is issued. No building declared unsafe or unfit for human habitation by law shall be occupied or used.
(Ord. No. 578, § 4.2(16), eff. 5-2-1983)

Sec. 42-568. Open unoccupied space or yard.

No required open unoccupied space shall be occupied by any structure other than the following and then only as regulated by the provisions of this chapter: anything excepted from the definition of a structure, landscaping,

driveways, sidewalks, walls, fences, lighting standards, signs, unroofed structures which do not exceed three feet in height, cantilevered roof eaves not to exceed three feet of overhang into any such space and, projections as permitted by section 42-570.

(Ord. No. 578, § 4.2(17), eff. 5-2-1983)

Sec. 42-569. Principal use.

No lot shall contain more than one principal use. Where permitted, groups of buildings of the same use shall be considered as one principal use of the premises.

(Ord. No. 578, § 4.2(18), eff. 5-2-1983)

Sec. 42-570. Projections.

Retractable awnings may project into a required yard in any zone. Permanent awnings, canopies, marquees, eaves, balconies or decorative architectural projections may extend up to 28 inches into any required yard.

(Ord. No. 578, § 4.2(19), eff. 5-2-1983)

Sec. 42-571. Refuse.

The storage, collection or placing of discarded material, inoperable equipment, inoperable vehicles without current license or other refuse is prohibited in any required yard in all zones. Any such storage, placing, or collection shall not constitute a junkyard as defined in section 42-3.

(Ord. No. 578, § 4.2(20), eff. 5-2-1983)

Sec. 42-572. Restoring unsafe buildings.

Nothing in this chapter shall prevent the strengthening or restoring to a safe condition of any structure declared unsafe by the building inspector, in conformity with the building code. (Ord. No. 578, § 4.2(21), eff. 5-2-1983)

Sec. 42-573. Row dwellings.

Attached single-family dwellings may not be erected and sold as individual units, unless situated in an approved condominium development.

(Ord. No. 578, § 4.2(22), eff. 5-2-1983)

Sec. 42-574. Screening.

When required by this chapter, screening may consist of any combination of topography, building, fencing or plantings which will effectively block the casual view by a person standing on the adjacent property or on a public street or sidewalk. Such fencing shall be at least 50 percent solid and any plantings shall consist of evergreen trees or evergreen shrubs capable of a growth to at least five feet and placed at three-foot intervals, provided no such planting shall

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be less than 30 inches in height when originally planted; and further provided that any plant which dies shall be replaced in a reasonable period of time.

(Ord. No. 578, § 4.2(23), eff. 5-2-1983)

Sec. 42-575. Swimming pools.

Swimming pools are permitted in all districts, provided the swimming pool ordinance and the following regulations are complied with:

- (1) The pool shall be maintained in a clean and healthy condition in accordance with the county and township health requirements.
- (2) No swimming pool shall be emptied in any manner that will cause water to flow upon another lot or be emptied on any adjacent land or street.
- (3) All swimming pools to be constructed shall be enclosed by a fence which shall be at least four feet in height and which shall be of a type not readily climbed by children. The gates shall be of a self-closing and latching type with the latch on the inside of the fence, not readily available for children to open from the outside; provided, however, that if the entire premises of the residence is enclosed, then this provision may be waived by the building inspector upon inspection and approval of the residence enclosure.
- (4) The swimming pool shall not be closer than ten feet to any side or rear lot line and no part of any pool shall be constructed within a required front yard or required side yard. (Ord. No. 578, § 4.2(26), eff. 5-2-1983)

Sec. 42-576. Transition zoning.

The following transitional uses are permitted on transition lots in R districts:

- (1) The first such lot, or lots in single ownership, or the first 150 feet thereof, whichever is the lesser, may be utilized in accordance with **R** zone requirements.
- (2) The first 150 feet thereof may be utilized for off-street parking.
- (3) Any single principal structure located or built completely upon the first 150 feet thereof may be used for offices, funeral homes, or a business permitted in the R districts provided:
 - a. Yards must meet the district requirements in which such lot is located.
 - b. The building shall conform to the residential character of the neighborhood.
 - c. Sign requirements of the **R** districts shall be complied with except that sign area limitations may be increased 100 percent.

(Ord. No. 578, § 4.2(29), eff. 5-2-1983)

Sec. 42-577. Walls and fences.

A wall, fence or yard enclosure not over six feet high, or higher if a retaining wall, may be erected within the limits of any yard or outer court except a required front yard where the height shall not exceed three feet, unless an open type fence that does not reduce visibility at right angles to any surface of such fence by more than 20 percent. Fences may be constructed to a maximum height of eight feet in

an industrial zone, provided that they are of the open type which does not reduce visibility at right angles to any surface of such fence by more than 20 percent. Provided, however, no fence for the enclosure of animals shall be constructed or maintained in the R-6 residential district in front or side yards adjacent to a residential structure.

(Ord. No. 578, § 4.2(31), *eff.* 5-2-1983; Ord. No. 705, *eff.* 5-13-2000)

Sec. 42-578. Yards.

Every lot must provide a front yard, a rear yard and side yards as required by its zone district. All front yards must face upon a dedicated public street and shall be at least 66 feet in width at the street right-of-way line, except in an approved subdivision, and *where* superseded by specific requirements applicable in the zoning district where the lot is situated. (Ord. No. 578, § 4.2(32), *eff.* 5-2-1983; Ord. No. 666, § 1, *eff.* 7-24-1995)

Sec. 42-579. Setback requirements on highways and roads.

(a) All state truckline and U.S. Interstate numbered highways are hereby designated Class A highways. The setback line for Class A highways shall be 120 feet from the centerline of the highway or 60 feet from the right-of-way line, whichever is greater.

(b) All county primary highways not otherwise designated as Class A highways are hereby designated Class B highways. The setback for Class B highways shall be 100 feet from the centerline of such highway or 40 feet from the right-of-way line, whichever is greater.

(c) All county local roads or private roads which the public uses, or upon which the public funds have been spent, not otherwise designated as Class A or Class B highways, are hereby designated Class C highways. The setback for Class C highways shall be 63 feet from the centerline of the highway or 30 feet from the right-of-way line, whichever is greater.

(d) A setback equal to the average setback of existing principal buildings located within 500 feet of a proposed building site and on the same side of the street, shall be permitted where five of these buildings do not conform with the appropriate setback line.

(Ord. No. 578, § 4.2(33), *eff.* 5-2-1983)

Secs. 42-580--42-595. Reserved.

DIVISION 2. RESIDENTIAL DISTRICTS

Sec. 42-596. General provisions for residential districts.

In addition to the provisions of article VU, division 1 of this chapter, the following provisions shall apply in residential districts.

(Ord. No. 578, § 4.3, *eff.* 5-2-1983)

Sec. 42-597. Accessory buildings.

No accessory building shall exceed a height of 16 feet. (Ord. No. 578, § 4.3(1), *eff.* 5-2-1983)

Sec. 42-598. Accessory storage.

The limited convenience storage of materials and goods used by the owner of the premises in his occupation or hobby is permitted in an accessory building or garage, provided that not more than one-

half of the floor area of such building or garage is devoted to such storage, that no activity other than convenience storage shall be carried on therein and that such use shall not in any way adversely affect or cause a nuisance to an adjoining conforming use of land. (Ord. No. 578, § 4.3(2), eff. 5-2-1983)

Sec. 42-599. Front yard variation.

If 40 percent or more of all the frontage of one side of a street between two intersecting streets has been developed with residences, the front yard so established shall prevail in the case of one- and two-family houses, but nothing in this section shall be construed to permit any new house to be located closer than 20 feet to the front street line, or to require a front yard setback of more than 40 feet from the front street line.

(Ord. No. 578, § 4.3(3), eff. 5-2-1983)

Sec. 42-600. Nonresidential uses.

All nonresidential uses or accessory buildings hereto permitted in any R-1, R-2, and R-3 residential district shall provide front, side and rear yards which are twice the height of the building wall facing thereon or the distance required by the zone, whichever is greater. Where such use provides residence care or temporary care of human beings such

as nursing homes, hospitals, convalescent homes or similar institutions, the minimum lot area of the zone shall be provided for each five persons so accommodated.

(Ord. No. 578, § 4.3(4), eff. 5-2-1983)

Sec. 42-601. Truck parking.

The parking or storage of trucks in any R-1, R-2, R-3, or R-5 district is prohibited except for one truck used personally by the occupant of the premises; provided, however, that such truck shall not exceed a rated capacity of one ton.

(Ord. No. 578, § 4.3(5), eff. 5-2-1983)

Sec. 42-602. Size of dwelling.

No building to be used as a dwelling shall hereafter be erected or altered having a first floor area of not less than 720 square feet if such dwelling has a basement equal to one-half of such first floor area, and not less than 860 square feet of the first floor area if such dwelling has no basement. Floor area shall be the computed gross floor space of the enclosed winterized portion of the house, but not to include porches, breezeways, etc.

(Ord. No. 578, § 4.3(6), eff. 5-2-1983)

Sec. 42-603. Noise.

The following acts, among others not enumerated, are declared to be loud, disturbing and unnecessary noises in violation of this chapter with all residential districts:

- (1) *Horns, signaling devices, etc.* The sounding of any horn or signaling device on any vehicle on any street or public place of the township, except as a safety warning or device used by police, fire or ambulance vehicles; the creation by means of any such signaling device of any unreasonably loud or harsh sound; and the sounding of any such device for an unnecessary and unreasonable period of time.

- (2) *Radios, phonographs, etc.* The operating of any radio receiving set, musical instrument, phonograph or other machine for the producing or reproducing of sound at any time with louder volume than is necessary for convenient hearing for the person who is in the room or vehicle in which such machine or device is operated and those who are voluntary listeners thereto. The operation of any such device between the hours of 11:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible a distance of 50 feet from the structure or vehicle in which it is located shall be prima facie evidence of a violation of this section.
- (3) *Loudspeakers, amplifiers for advertising.* Using any machine or device for producing or reproducing of sound which is as upon any unenclosed area open to the public for the purpose of commercial advertising.
- (4) *Yelling, shouting, etc.* Yelling, shouting, etc., particularly between the hours of 11:00 p.m. and 7:00 a.m. or at anytime or place so as to disturb the quiet of any person in the vicinity
- (5) *Animals, birds, etc.* The keeping of any animal or bird, which, by causing frequent or continued noise, shall disturb the comfort of any person in the vicinity.
- (6) *Steam whistles.* The blowing of any locomotive steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work or as a warning of fire or danger, or upon request of proper administrative authorities.
- (7) *Exhausts.* The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motorboat or motor vehicle, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
- (8) *Defect in vehicle or load.* The use of any automobile, motorcycle or vehicle in such manner as to create loud and unnecessary grating, grinding, rattling or other noise.
- (9) *Loading, unloading, opening boxes.* The creation of a loud and excessive noise in connection with loading or unloading any device or the opening and destruction of bales, boxes, crates and containers.
- (10) *Construction or repairing of buildings.* The erection (including excavating), demolition, alteration or repair of any building other than between the hours of 7:00 a.m. and 11:00 p.m., except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the building inspector, which permit may be granted for a period not to exceed three days or less while the emergency continues and which permit may be renewed for periods of three days or less while the emergency continues. If the building inspector shall determine that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building or the excavation of streets and highways within the hours of 6:00 p.m. and 7:00 a.m., and if he shall further determine that loss or inconvenience would result to any party in interest, he may grant permission for such work to be done between the hours of 6:00 p.m. and 7:00 a.m., upon application for a permit, requesting performance of such work during the hours aforementioned.
- (11) *Schools, courts, churches, hospitals.* The creation of any excessive noise on any street adjacent to any school, institution of learning, church, court or hospital, which unreasonably interferes with the business of any such institution, or which disturbs or unduly annoys patients in a hospital; provided conspicuous signs are displayed in such street indicating the type of institution situated thereon and that noise is prohibited or that quiet is required in such area.

(Ord. No. 578, § 4.3(7), eff. 5-2-1983)

DIVISION 3. PRIVATE ROADS

Sec. 42-604. Private roads in general.

(a) **Purpose.** The regulations in this division have been adopted to assure that:

- (1) Private roads are designed, constructed and maintained to assure the safe passage and maneuverability of private passenger vehicles, service vehicles and emergency services vehicles in all seasons of the year;
- (2) Private roads are constructed of suitable materials to ensure safe passage and long-term use;
- (3) Private roads will be constructed so as to protect against or to minimize soil erosion and to prevent damage to the lakes, streams, wetlands, and natural environment of the township;
- (4) Private roads specifications meet current fire and safety standards.

(b) **Effect.**

- (1) This division shall apply to all private roads constructed from and after the effective date of this division, except as otherwise provided in this division.
- (2) Private roads that were existing before the effective date of this division shall continue to exist as they previously did. When an existing private road is extended and/or expanded, it shall comply with these regulations.

(c) **Definitions.**

The following definitions shall apply to the interpretation of the regulations in this division.

- (1) "Drain commissioner" means the Muskegon County Drain Commissioner.
- (2) "Private road" means any privately owned, improved and maintained roadway, path or trail which provides primary means of ingress and egress from a public right-of-way for more than one parcel.
- (3) "Road Authority" means the Muskegon County Road Commission or current agency in charge of the roads within the Township.
- (4) "Current Fire and Safety Standards" means the current fire and safety standards as adopted from time to time by the Township Board.
- (5) "Lateral crown" means the slope of the horizontal cross section of a private road, measured from the highest point of the road's upper surface to the lowest point of the road's upper surface.

- (6) "Clear and passable" means that the area is free of roots, brush, shrubs, trees, debris or any other obstruction.
- (7) "Fire Chief" means the chief officer of the fire department serving the jurisdiction, or a duly authorized representative.

(d) **General regulations.**

- (1) Private roads are permitted in all zoning districts.
- (2) Frontage requirements. A parcel served by a private road shall maintain frontage along the private road right-of-way equal to the minimum lot width required for the zoning district in which the parcel is located.
- (3) Extensions and/or expansions. Any extension and/or expansion to a private road in the township shall be considered part of that private road, and shall be constructed in a manner that complies with the requirements of this chapter.
- (4) Stormwater. The private road shall be constructed with a storm water run-off management system as deemed necessary by the township engineer and/or the drain commissioner to maintain predevelopment rates of runoff from parcels served by the proposed private road and for the right-of-way for the private road.
- (5) Watercourse or wetlands. The crossing of any watercourse or wetlands by a private road shall be accomplished in a manner that satisfies the requirements of the township and any county or state agency having jurisdiction.
- (6) Signage. The private road shall be given a name, as approved by Muskegon County Central Dispatch, the township assessor, and the fire chief. Street signs for the private road shall be designed and installed in accordance with the standards of the road authority. Temporary street signs shall be installed at all street intersections when construction of new roadways allows passage by vehicles. The addresses of the lots serviced by the private road shall be permanently displayed on the dwellings located on those lots and on their mailboxes. If the address displayed on the dwelling cannot be seen clearly from where the driveway meets the private road then a permanent address must be placed where the driveway meets the private road. Cost of all signs shall be the responsibility of the permit holder for construction of the road.
- (7) Debris. Any debris resulting from the construction of a private road shall be removed for appropriate disposal by the owner within 30 days after completion.
- (8) Other ordinances. All township water and sewer requirements and any other relevant requirements of this Code must be satisfied with the construction of any private road.

(e) **Private road construction permit.**

- (1) No private road shall be constructed, extended or relocated unless a private road construction permit has been applied for and obtained under this chapter.
- (2) An application for a private road construction permit shall consist of the following materials and documents.
 - a. A completed application form containing the name(s) of the owner(s) and any other parties having any legal interest in the proposed private road, the property on which it is to be constructed, and the property it is to serve;

- b. A survey of the proposed private road right-of-way prepared by a Michigan registered land surveyor;
- c. A joint maintenance agreement which meets the requirements of this chapter; and
- d. Ten (10) copies of a scale drawing, prepared by a Michigan registered engineer, showing the following:
 - 1. The exterior boundaries of the lot or parcel on which the private road will be constructed;
 - 2. The proposed layout, grade, elevation, dimensions, and design of the private road right-of-way and roadway, including the location of the proposed ingress and egress from the adjoining public street(s)/road(s);
 - 3. The location of all public utilities, including water, sewer, telephone, gas, electricity and television cable to be located in or within 20 feet of the private road right-of-Wray;
 - 4. The location of any lakes, streams, wetlands, drains, septic systems or private sewer systems within 100 *feet of the private road right-of-way;
 - 5. The proposed layout and location of lots to be served by the proposed private road; •
 - 6. The location of any other building or structures located or to be located within one 100 feet of the private road right-of- way;
 - 7. The location of all existing buildings or structures to be serviced by the private road;
 - 8. A storm water management plan for water runoff from the private road.

Review and approval procedure.

- (1) Application for private road construction permits shall be subject to the procedures applicable to site plan approval outlined in article V of this chapter.
- (2) Applicable fees shall be paid when a completed application is presented for a private road permit.

Ⓞ Maintenance and repairs.

- (1) Private roads shall be maintained in a manner that complies with the provisions of this chapter.
- (2) All private roads shall be continuously maintained in such a way that they will not constitute a danger to the health, safety and welfare of the township's inhabitants or visitors. All private roads shall be continuously maintained in such a way that they are readily accessible to and usable by emergency vehicles in all types of weather.

- (3) All costs for the maintenance and repair of a private road shall be the responsibility of the property owners served by the private road, as specified in the joint maintenance agreement required by this chapter.

(h) **Indemnity.**

As a condition of applying for and obtaining a private road construction permit, all applicants for a private road construction permit and all owners of a private road shall agree to indemnify

and hold the township, and anyone else authorized by and acting on behalf of the township to assist in the private road review process, harmless from any claims for personal injury or property damage arising out of the construction, use, maintenance, inspection, review or repair of a private road.

Maintenance agreement.

Applicants for a private road construction permit, and owners of the property bordered by and serviced by a private road, shall provide the township with a recordable private road maintenance agreement. The maintenance agreement shall be in a form satisfactory to the township and shall provide that the private road shall be privately maintained and repaired to assure safe travel for all emergency vehicles at all times and during all seasons of the year. This maintenance agreement shall be recorded at the Muskegon County Register of Deeds and shall be a recordable covenant running with the land, binding on all lots served by and bordered by the private road. The maintenance agreement shall include the following.

- (1) Financing improvement and/or maintenance. The maintenance agreement shall include a method of initiating and financing any improvement or maintenance of the private road as is necessary to keep it in a reasonably good, usable and safe condition.
- (2) Method of apportioning costs. The maintenance agreement shall include a method of apportioning the cost of improvement or maintenance of the private road, together with a method to enforce payment by providing that any amount remaining unpaid by the owner of a lot serviced by the private road shall become a lien against that lot.
- (3) Township's option to improve and/or maintain. The maintenance agreement shall include a procedure whereby the township may, in its discretion but without obligation, improve or maintain the private road and assess the cost thereof to the owners of lots serviced by the private road in a reasonably proportionate manner, such as road front footage, without the need for any additional petition for the improvements or maintenance from the lot owners.

- (4) Non-interference provision. The maintenance agreement shall include a provision that the owner of each lot using the private road shall not prohibit, restrict, limit or in any way interfere with normal ingress and egress and other use(s) of the private road by the owners of the remaining lots with an interest in the private road, including family members, guests, trades people and others with legitimate purposes who are traveling to or returning from any of the lots with an interest in the private road.
- (5) Indemnity provision. The maintenance agreement shall include a provision that all of the owners of lots with an interest in the private road shall indemnify the township from any liability whatsoever arising from the purchasing, planning, constructing, inspecting, repairing, maintaining, using and dedicating of the private road.

(j) Certificate of compliance.

Upon completion of construction of the private road, the permit holder shall provide the building inspector with a set of "as built" drawings and sealed documentation from a Michigan registered engineer certifying that the private road has been completed in accordance with the requirements of the permit issued. Authorized township personnel may inspect the private road to determine whether it complies with the approved plans and permits as issued, but this inspection shall not detract from the township's ability to rely on the certification of a Michigan registered engineer concerning the private road. A certificate of compliance shall be issued by authorized township personnel if it is determined that the private road has been constructed in compliance with approved plans and the permit as issued.

If the completed private road does not satisfy the requirements of the issued permit, the applicant(s) shall be notified of the noncompliance in writing and shall be given a reasonable period of time within which to correct the deficiencies. Failure to correct the deficiencies within the time provided shall subject the applicant(s) to the penalties provided for in this chapter.

Authorized township personnel shall have the right to enter upon the property where the private road is or will be located to conduct such inspections as may be necessary to administer these regulations and guarantee continued compliance.

(k) Fees.

Application fees for permits required by this chapter shall be set by the township board from time to time by resolution.

(l) Building permits for parcels on private roads.

No building permit shall be issued for any building, dwelling or structure provided access by and having frontage on a private road unless the maintenance agreement is recorded, a private road construction permit has been issued by the township, and an inspection by the fire chief has determined that there is acceptable access in compliance with current fire and safety standards.

(m) Approval by the road authority.

No permit shall be issued for a private road until the applicant has presented the township with a curb-cut permit issued by the road authority, or a letter from the road authority indicating that no such permit is required.

(n) Performance guarantee.

- (1) The township may require the applicant to post a bond or some other performance guarantee in the form of cash, a bank letter of credit or other surety to ensure compliance with the requirements of this chapter.
- (2) If required, the amount of the performance guarantee shall be equal to the total estimated cost of construction of the private road as approved by the township.
- (3) The performance guarantee, or unspent portions of it, will be returned to the applicant by the township upon completion of the private road to the standards required by this chapter.
- (4) The performance guarantee shall be processed in accordance with the requirements of section 42-227, and in accordance with the requirements of the Township Zoning Act, including the requirement for periodic rebates of the performance guarantee as portions of the construction of the private road are completed.

ⓐ **Miscellaneous provisions.** For purposes of this chapter, the following definitions or rules shall apply:

- (1) The length of a private road shall be measured along the centerline of the road from the centerline of the public road that the private road touches to the end of the private road.
- (2) All private roads are subject to periodic inspection by the township fire department in order to ensure that the road is being properly maintained according to current fire and safety standards.
- (3) The terms "maintenance" and "repair" include, but are not limited to, the following: snow removal, grading, tree trimming, tree removal, and reconstruction of a private road.
- (4) This division shall apply to all private roads which are constructed after the effective date of this division, and to all private roads lawfully existing at the time of the effective date of this division if they are subsequently improved, extended, or expanded to serve a greater number of parcels.
- (5) These regulations replace in their entirety any other regulations applicable to the construction of private roads in the township.
- (6) Construction of a private road is to be commenced within one year of issuance of the permit, and the applicant is to proceed diligently to completion of the road. If construction is not commenced within such period and pursued diligently to completion, the permit shall expire and the applicant shall reapply as provided in this division if the applicant later decides to proceed. The period within which construction must be commenced is subject to extension by the township board for good cause shown and, as a condition of extension, the township board may increase the amount of performance guarantee required.
- (7) The improved portion and the cleared and passable portion of any private road shall be located in the middle of the right-of-way for the private road.

Sec. 42.605. Standards and requirements for private roads.

All private roads shall be subject to the following standards and requirements.

- (a) **Less than seven parcels served.** Private roads which serve more than one and less than seven parcels shall have the following minimum improvements.
 - (1) A subbase of granular material (MDOT Class II) which is at least 12 inches in depth.
 - (2) An aggregate base course of compacted gravel, crushed concrete, slag, or similar material which is at least six inches in depth for the entire length of the road.
- (3) The minimum width of the right-of-way shall be at least 33 feet for the entire length.
- (4) The minimum width of both the subbase and the aggregate base course shall be at least 14 feet for the entire length of the road.
- (5) The road shall have a vertical clearance of at least 13 feet and six inches for its entire length.
- (6) Roads which are at least 400 feet but less than 600 feet in length shall provide a passing lane 20 feet wide and 60 feet in length. Roads which are at least 600 feet but less than 800 feet in length will provide two such passing lanes. Private roads greater than 800 feet in total length shall provide an adequate number of passing lanes so as to allow uninterrupted fire department operations. These passing lanes shall be constructed in the same manner as the private road, using the same materials.
 - (7) The road grade shall not exceed 10 percent.
 - (8) The minimum width of the aggregate base course and an additional two feet on each side must be clear, passable and maintained.
 - (9) The private road shall have a minimum lateral crown of two percent and a maximum lateral crown of seven percent.
- (10) The owner of the property on which the private road shall be constructed must record an easement for ingress and egress purposes directly to and from a public street for the benefit of the owners and users of the parcels which are served by the private road. The easement shall also provide for the construction, maintenance, and repair (as well as reconstruction) of the road and utilities. In addition, a public easement shall be required for municipal water and sanitary sewer. The easement shall benefit the parcels which front on or abut to the private road. Additionally, the owner of the property over which the private road is to be constructed shall grant an easement to or for each utility company or municipality which provides utility or emergency services to any parcel which is accessed by the private road; the form and location of the easement for utilities or emergency service must be reviewed and approved by the utility company or municipality prior to recording of the easement.

The owner of the property on which the private road shall be constructed must record a maintenance agreement with the Muskegon County Register of Deeds which complies with the requirements of this chapter.

(11) Any private road with less than seven parcels which was developed or approved in conjunction with a development with seven or more parcels must follow the standards of section 42-605(b).

(12) The design layout, including but not limited to radius of turns and cul-de-sacs, shall be reviewed by the township fire department to ensure that the township's equipment can readily traverse the road. The review by the township fire department shall be based on the current fire and safety standards. Any private road which dead ends shall have a cul-de-sac which is designed and constructed in accordance with the specifications of the current fire and safety standards and/or the road authority. Standards of a private road system and intersections with public roads shall provide adequate clear vision, safe turning and safe travel at the posted speed limit as determined by the road authority, as if the private road were a public road under the jurisdiction of the road authority.

Commercial zone or more than six parcels serviced.

Private roads which are in a

commercial zone or which serve seven or more parcels shall have the following minimum improvements, or meet current road authority standards, whichever are more stringent.

- (1) A sub-base of granular material (MDOT Class 11) which is at least 12 inches in depth.
- (2) An aggregate base course of compacted gravel, crushed concrete, slag, or similar material which is at least six inches in depth for the entire length of the road.
- (3) The minimum width of the right-of-way shall be at least 66 feet for the entire length. Private roads using an approved curb and gutter drainage system shall be at least 50 feet right-of-way in width for the entire length, plus the curb and gutter.
- (4) Bituminous paving overlay of the base course is required. The bituminous paving and the bituminous mixture or content must meet or exceed the then current standards of the road authority for public residential roads, excluding the requirement for curb, gutter and storm sewer installation. The paving must also be able to support the live load requirement of current fire and safety standards.
- (5) The road shall have a vertical clearance of at least 13 feet and six inches for its entire length.
- (6) The minimum width of the aggregate base course and an additional two feet on each side must be clear, passable and maintained.
- (7) The private road shall have a minimum lateral crown of two percent and a maximum lateral crown of seven percent.
- (8) The owner of the property over which the private road shall be constructed must record an easement for ingress and egress purposes directly to and from a public street for the benefit of the owners and users of the parcels which are served by the private road. The easement shall also provide for the construction, maintenance, and repair (as well as reconstruction) of the road and utilities. In addition, a public easement shall be required for municipal water and sanitary sewer. The easement shall benefit the parcels which front on or abut to the private road. Additionally, the owner of the property over which the private road is to be constructed shall grant an easement to or for each utility company or municipality which provides utility or emergency services to any parcel which is accessed by the private road; the form and location of the easement for utilities or emergency service must be reviewed and approved by the utility company or municipality prior to recording of the easement.

- (9) The owner of the property over which the private road shall be constructed must record a maintenance agreement with the Muskegon County Register of Deeds which complies with the requirements of this chapter.
- (10) The design layout, including but not limited to radius of turns and cul-de-sacs, shall be reviewed by the township fire department to ensure that the township's equipment can readily traverse the road. The review by the township fire department shall be based on the current fire and safety standards. Any private road which dead ends shall have a cul-de-sac which is designed and constructed in accordance with the specifications of the current fire and safety standards and/or the county road authority.

Standards of a private road system and intersections with public roads shall provide adequate clear vision, safe turning and safe travel at the posted speed limit as determined by the road authority, as if the private road were a public road under the jurisdiction of the road authority.

ⒸMaximum separation. A private road right-of-way which intersects a public road right-of-way shall have a minimum separation from any other private road right-of-way and any other public road right-of-way equal to what the road authority would require as a minimum separation between two public roads. Ord 750 effective 10/2/2005.

DIVISION 4. DRIVEWAYS

Sec, 42-606. Driveways in general.

- (a) **Purpose.** The regulations in this division have been adopted to assure that:
 - (1) Driveways are designed, constructed and maintained to assure the safe passage and maneuverability of private passenger vehicles, service vehicles and emergency services vehicles to the primary residential dwelling in all seasons of the year;
 - (2) Driveways are constructed of suitable materials to ensure safe passage and long-term use;
 - (3) driveways will be constructed to protect against or to minimize soil erosion and to prevent damage to the lakes, streams, wetlands, and natural environment of the township; and
 - (4) Driveway specifications meet current township fire and safety standards
- (b) **Effect.**
 - (1) This division shall apply to all residential driveways constructed from and after the effective date of this division, except as otherwise provided in this division.

- (2) Driveways that were existing before the effective date of this division may continue to exist as they previously did. When an existing driveway is extended and/or expanded to a residential dwelling, it shall comply with these regulations.

(c) **Definitions.** The following definitions shall apply to the interpretation of the regulations in this division.

- (1) "Drain commissioner" means the Muskegon County Drain Commissioner.
- (2) "Driveway" means any privately owned, improved and maintained roadway, path or trail which provides primary means of ingress and egress from a public or private right-of-way for one parcel to the primary residential dwelling.
- (3) "Road Authority" means the Muskegon County Road Commission or current agency in charge of the roads within the township.
- (4) "Current Fire and Safety Standards" means the current fire and safety standards as adopted from time to time by the Township Board.
- (5) "Lateral crown" means the slope of the horizontal cross section of a driveway, measured from the highest point of the drive's upper surface to the lowest point of the drive's upper surface.
- (6) "Clear and passable" means that the area is free of roots, brush, shrubs, trees, debris or any other obstruction.
- (7) "Maintained" includes but is not limited to snow removal, grading, tree trimming, and driveway reconstructing.

(d) **General regulations.**

- (1) This division applies to all driveways constructed to a residential dwelling.
- (2) Frontage requirements. A parcel served by a driveway shall maintain frontage along a private or public road right-of-way equal to the minimum lot width required for the zoning district in which the parcel is located.
- (3) Extensions and/or expansions. Any extension and/or expansion to a driveway in the township to a residential dwelling shall be considered part of that driveway, and shall be constructed in a manner that complies with the requirements of this chapter.
- (4) Storm water. The driveway shall be constructed with a storm water run-off management system as deemed necessary by the township engineer and/or the drain commissioner.
 - (5) Watercourse or wetlands. The crossing of any watercourse or wetlands by a driveway shall be accomplished in a manner that satisfies the requirements of the township and any county or state agency having jurisdiction.
 - (6) Signage. The address of a lot serviced by a driveway shall be permanently displayed on any dwelling located on the lot and on any accompanying mailbox. If the address displayed on the dwelling cannot be seen clearly from where the driveway meets the public or private road then a permanent address must be placed where the driveway meets the public or private road. Cost of all signs shall be the responsibility of the land owner.

- (7) Other ordinances. All township water and sewer requirements and any other relevant requirements of this Code must be satisfied with the construction of any driveway.

④ **Miscellaneous provisions.** For purposes of this division, the following definitions or rules shall apply:

- (1) The length of a driveway shall be measured along the centerline of the driveway from the centerline of the public or private road that the driveway touches to the opposite end of the driveway.
- (2) All driveways are subject to periodic inspection by the township fire department in order to ensure that the driveway is properly maintained.
- (3) These regulations in this division replace to the extent of any conflict any other regulations applicable to the construction of driveways in the township which are inconsistent with these regulations.

⑤ **Standards for driveway construction.**

- (1) Driveways which are less than 150 feet in length must meet all current township fire and safety standards.
- (2) Driveways which are 150 feet in length or longer must meet the following requirements.
 - a. The driveways must have a subbase of granular material which is at least 12 inches in depth for their entire length.
 - b. The driveways must have an aggregate base course of compacted gravel, crushed concrete, slag, or similar material which is at least six inches in depth for their entire length.
 - c. The minimum width of both the subbase and the aggregate base course shall be at least 14 feet for the entire length of the driveways.
 - d. The driveways shall have a vertical clearance of at least 13 feet and six inches for their entire length.
 - e. The minimum width of the aggregate base course and an additional two feet on each side must be clear and passable and maintained.
 - f. The driveways shall have a minimum lateral crown of two percent and a maximum lateral crown of seven percent.
 - g. The owners of the property over which the driveways are constructed shall grant easements when required by the township for sewer and/or water lines. The form and location of the easements must be reviewed and approved by the township prior to being recorded.
 - h. The driveways' design layout, including but not limited to radius of turns and cul-de-sacs, shall be reviewed by the township fire department to ensure that the township's firefighting equipment can readily traverse the driveways. The review by the township fire department shall be based on the current fire and safety standards.

i Driveways which are at least 400 feet but less than 800 feet in length shall provide a passing lane at least 20 feet wide and 60 feet in length. Driveways which are 800 feet or longer in total length shall provide a passing lane every 400 feet which is at least 20 feet wide and 60 feet in length. These passing lanes shall be constructed in the same manner as the driveways, with the same materials.

(g) **Building permits.** No building permit shall be issued for any dwelling which has a driveway 150 feet in length or greater until the driveway design has been approved by the township fire department and the applicant has presented the township with a curb-cut permit issued by the road authority, or a letter from the road authority indicating that no such permit is required. No certificate of occupancy will be granted until the driveway is inspected and approved by the township fire department.

(h) Maintenance and repairs.

- (1) All driveways shall be continuously maintained in such a way that they are readily accessible to and usable by emergency vehicles in all types of weather.
- (2) All costs for the maintenance and repair of a driveway shall be the responsibility of the property owner served by the driveway. Ord 757 effective 7/2/2006

Secs. 42-604-42-630. Reserved.

ARTICLE VIII. OFF-STREET PARKING

*** Sec. 42-631. Site development or plot plan.**

The general and intensive use of the automobile requires careful study of the relationships between buildings, parking areas, driveways, streets, alleys, pedestrian walkways, traffic movements, visual obstructions of land uses or structures which generate or attract automobile or truck traffic or which require the accommodation of automobile or truck parking. To fully ensure the safety; convenience and well-being of the citizens and of the intended occupants of a particular use, the planning commission is hereby empowered as an administrative body to review a site development plan of any such use hereafter referred for such review prior to the issuance of a building permit. Approval shall be subject to the following procedures and conditions:

- (1) The planning commission shall ascertain that the proposed development is arranged:
 - a. To provide convenient and safe automobile circulation and parking in relation to streets, pedestrian walkways and adjoining properties of parking areas.
 - b. To ensure adequate visual sight distances.
 - c. To minimize conflicts of traffic movements on public streets and upon the property involved.
 - d. To ensure the safety, convenience and well-being of adjoining property owners and the citizens.
 - e. To comply with all provisions of this chapter.

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(2) To these ends the planning commission is empowered hereby to designate entryways and exits, the direction of traffic flow on off-street parking areas and drives, to limit the number of drives onto a public street, to designate their location of intersection with a public street and where feasible to require the use of existing drives on adjacent properties to decrease traffic conflicts on the public streets.

(3) Upon approval of the plan, the chairman of the planning commission shall sign three copies thereof. One signed copy shall be made a part of the planning commission's files and one shall be forwarded to the building inspector for issuance of a building permit.

(Ord. No. 578, § 4.2(25), eff. 5-2-1983)

***Cross reference—Traffic** and vehicles, ch. 30.

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Sec. 42-632. Residential off-street parking.

Provisions shall be made for at least one off-street parking space for each new one-family dwelling unit in R-1, R-2, R-3 and R-5 districts. Apartment dwellings shall provide three off-street parking spaces for every two dwellings. Parking in R districts is only permitted as an accessory use.

(Ord. No. 578, § 4.4, eff. 5-2-1983)

Sec. 42-633. Nonresidential off-street parking.

Provisions shall be made for at least one square foot of total parking area for each square foot of floor area for all nonresidential principal buildings or additions to such buildings in all districts. The conversion of an existing use to any other use or an addition to an existing building shall be deemed to be a new building which must meet all provisions of this article for the entire building. The planning commission shall require more than the minimum amount of off-street parking where the plans of the intended use indicate that parking demand will be in excess of the required minimum.

(Ord. No. 578, § 4.5, eff. 5-2-1983)

Sec. 42-634. Mixed occupancies and uses not specified.

In the case of mixed uses, the total requirements for off-street parking areas shall be the sum of the requirements of the various uses computed separately. Parking areas for churches, theaters or other uses in which the primary parking demand occurs out of normal work and business hours may be jointly used where adequate arrangements are made by the board to ensure that adequate space will always be available for each function. Uses participating in a public parking program shall be deemed to comply with these provisions.

(Ord. No. 578, § 4.6, eff. 5-2-1983)

Sec. 42-635. General design standards.

The following standards shall be complied with for parking areas for other than one- or two-family dwellings:

- (1) Each off-street parking space shall face directly upon a driveway within the parking area which is at least 20 feet in width.
- (2) All paved parking areas with more than four parking spaces should have such spaces legibly designated on the pavement.
- (3) In B and SC districts, driveway access shall be provided to parking areas or potential parking areas on adjacent property in a manner to provide for safe and harmonious traffic circulation between parking areas without entering on the public streets.
- (4) One-way driveway openings onto the street shall be at least 12 feet in width and not more than 18 feet in width. No such driveway opening shall be closer than 40 feet to another driveway.
- (5) Two-way driveway openings onto the street shall be at least 20 feet in width and not more than 30 feet in width. No such driveway opening shall be closer than 80 feet to another two-way driveway or a one-way entrance driveway.

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- (6) A one-way exit driveway shall be at least 20 feet from any intersecting street rights-of-way.
- (7) A one-way entrance driveway or a two-way driveway shall be located at least 65 feet from the intersection rights-of-way of two major streets designated on the land use plan.
- (8) The planning commission may require all access to a parking area to be from an adjacent parking area in places where limiting the number of driveways will improve or maintain the safety on the public streets. The planning commission shall require such access from an adjacent parking area where the provisions of this section cannot be met and shall forward the approved access to the board of zoning appeals for appropriate guarantees and conditions.

(Ord. No. 578, § 4.7, eff. 5-2-1983)

Sec. 42-636. Units of measurement.

The total parking area includes access drives within but not leading to, the parking area. (Ord. No. 578, § 4.8, eff. 5-2-1983)

Sec. 42-637. Locations of off-street parking facilities.

Required off-street parking facilities shall be located on the same lot, or lots in common ownership, as the principal use in all zones. In B and M districts additional off-street parking is permitted as a principal use on a separate lot.

(Ord. No. 578, § 4.9, eff. 5-2-1983)

Sec. 42-638. Parking areas in nonresidential zones.

Any parcel of land or part thereof in a commercial or industrial district which is used as a parking area shall be developed and maintained in accordance with the following requirements:

- (1) Parking areas shall be screened on any side which adjoins premises situated in a residential zone by an evergreen hedge or other dense natural landscaping. If owners of adjacent residential properties agree, this screening may be a solid uniformly painted fence or wall. No part of any parking area shall be closer than five feet to any residential property located in a residential district nor closer than five feet to any street right-of-way.
- (2) Every parking area shall be surfaced with asphalt, concrete or similar durable material and shall be graded and drained to dispose of all surface water. Any lighting shall be arranged to reflect the light away from all adjoining residential buildings, zones or streets.
- (3) A site development plan of the parking area, driveways, signs, drainage, lighting and landscaping shall be subject to the approval of the planning commission prior to the issuance of a certificate of zoning compliance.
- (4) The area between the parking area and the public street right-of-way shall be landscaped. At least five percent of all parking areas shall be landscaped areas and said areas shall be regularly maintained. The planning commission may require additional landscaping where deemed necessary to maintain the desirability of adjoining property.

(Ord. No. 578, § 4.10, eff. 5-2-1983)

Sec. 42-639. Parking areas in residential zones.

Any person desiring to establish a parking area for more than four automobiles as an accessory use or a transitional use in a residential zone, other than for a farm use, shall submit plans to the planning commission showing the size, design, landscaping, curb cuts and other features of the parking lot. Such parking areas may be authorized by the planning commission subject to the following conditions:

- (1) All parking areas shall be landscaped, screened, surfaced and drained as provided in section 42-638. No part of a parking area shall be closer than five feet to an adjacent property nor extend into the required front yard. All areas not occupied by the parking area or access drive shall be landscaped. Screening required in section 42-638 shall be provided between the parking area and the public street right-of-way.
- (2) All parking areas shall be used solely for the parking of passenger automobiles, and no commercial work, sale or service of any kind shall be conducted thereon. No sign other than entrance, exit and condition of use signs shall be maintained and the aggregate area of all such signs shall not exceed 12 square feet.
- (3) Each entrance to and exit from a parking area shall be at least 25 feet from any adjacent property and shall not be wider than 20 feet. The planning commission shall ascertain that surrounding properties are fully protected from detrimental effects.

(Ord. No. 578, § 4.11, eff. 5-2-1983)

Sec. 42-640. Required off-street truck parking and loading space.

In all districts every building erected which is to be occupied by manufacturing, storage, retail store, wholesale store, warehouse, school, market, hotel, hospital, mortuary, laundry or uses similarly requiring the receipt or distribution of materials, a merchandise or persons by truck or bus shall provide and maintain on the same premises off-street bus or truck parking and loading spaces of sufficient number to accommodate all trucks and buses customarily on the property in such a way that no street or off-street parking area is so used. The following minimum number of off-street truck parking and loading spaces shall be provided in any commercial or industrial district in ratio with the floor area of the building, regardless of use:

- (1) 0 to 10,000 square feet—One space.
- (2) 10,001 to 25,000 square feet—Two spaces.
- (3) 25,001 to 50,000 square feet—Three spaces.
- (4) 50,001 to 100,000 square feet—Four spaces.
- (5) One space for every 100,000 square feet thereafter.
- (6) Such space may occupy all or any part of any required side or rear yard but shall comply with the provisions of sections 42-157 and 42-158.

(Ord. No. 578, § 4.12, eff. 5-2-1983)

Sec. 42-641. Parking variation.

Where it can be demonstrated that the requirements of this section would provide an unnecessary amount of parking area for the peculiar needs of a particular use, the planning commission may approve a plot plan with more or less improved parking area provided all the following conditions are present:

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- (1) The use does not attract or provide services to the general public.
 - (2) The maximum number of employees and visitors during any one eight-hour period can be demonstrated.
 - (3) An agreement to provide additional parking is legibly stated on the site development plan if the use changes or if an increase in employees or visitors shall occur at a future time.
 - (4) The parking area proposed accommodates one car for each stated employee or visitor plus ten percent more than such number.
 - (5) The total required parking area layout is shown on the site development plan with that area not to be improved designated as landscaped and reserved for future parking.
 - (6) The plat plan approval of lesser improvement requirement shall be valid only for the stated use.
- (Ord. No. 578, § 4.13, eff. 5-2-1983)

Sec. 42-642. Permits.

No parking area may be constructed or enlarged before the issuance of a certificate of zoning compliance. Before issuing a certificate of zoning compliance the building inspector shall be presented with a site development plan approved by the planning commission. No parking area shall be occupied or used as a parking area prior to the issuance of an occupancy permit nor shall it be used or occupied if an occupancy permit has been revoked. The building inspector is hereby authorized to revoke an occupancy permit for a parking area whenever the conditions or requirements of the approved plat plan, this chapter or any special conditions imposed by the planning commission are not complied with. Such use or occupancy shall cease within 60 days following such revocation. The building inspector may issue a temporary occupancy permit with special conditions stated thereon where the full improvement of a parking area would not be warranted due to settling ground, adverse weather conditions, contractor scheduling or similar reasonable circumstances. A temporary use permit may be issued for up to 12 months and may not be renewed except by direction of the planning commission.

(Ord. No. 578, § 4.14, eff. 5-2-1983)

Secs. 42-643-42-670. Reserved.

ARTICLE II SIGNS

Sec. 42-671. General provisions.

(a) *Permit required.* Except as otherwise specifically authorized, no sign shall be located, erected, moved, reconstructed, extended, enlarged or structurally altered within the township until a permit has been issued by the township building inspector. No permit shall be issued for a sign not in conformity with the size, type, number, and location and use regulations affecting each zoning district.

(b) *Exceptions.* A permit shall not be required for the following signs:

- (1) Official traffic control signs, and informational or directional notice erected by federal, state, county or township.
- (2) On-premises real estate signs, residential identification, warning and similar signs not greater than six square feet in area.

(c) *Prohibited characteristics of signs.*

- (1) No sign shall resemble, imitate or approximate the shape, size, form or color of railroad or traffic signs, signals, or devices.
- (2) No sign shall be so located as to interfere with the visibility or effectiveness of any official traffic sign or signal, or with driver vision at any access point or intersection.
- (3) No sign shall be erected, relocated, or maintained so as to prevent free ingress and egress from any door, window or fire escape, and no sign shall be attached to a standpipe or fire escape.
- (4) No sign shall contain any rotating or moving parts or be illuminated by flashing light.
- (5) No sign shall exceed the maximum height limitation of the district in which it is located.

(d) *Political advertising.* All political signs shall be removed within ten days after the election with which that political sign is concerned. The cost incurred by the township to remove political signs after ten days will be assessed to the candidate and his committee. (Ord. No. 578, § 17.1, eff. 5-2-1983; Ord. No. 686, § 2, eff. 11-5-1998)

Sec. 42-672. Signs in the residential districts.

In the R districts signs over one square foot in area shall set back from any property line a distance equal to the square foot area of the sign. Only the following signs shall be permitted:

- (1) One nonilluminated accessory professional or nameplate sign not more than 144 square inches in area.
 - (2) One nonilluminated temporary sign pertaining to the lease or sale of the premises upon which it is placed, not exceeding eight square feet in total area.
 - (3) A nonilluminated sign or signs aggregating not more than 12 square feet in accordance with this article, or signs which are deemed necessary to the public welfare by the township board.
 - (4) A sign of not more than 12 square feet advertising the name and activities of a permitted nonresidential use or apartment. Such signs may be indirectly illuminated.
 - (5) Temporary nonilluminated signs for not more than 30 days.
 - (6) Customary nonilluminated farm and crop signs on active farms.
- (Ord. No. 578, § 17.2, eff. 5-2-1983)

Sec. 42-673. Signs in the commercial and industrial districts.

In the B and M districts signs as permitted in section 42-672 shall be permitted as well as those permitted herein. No sign shall be permitted which is not accessory to the business or operation conducted on the property except for permitted billboards. Such signs may only be erected, painted or placed in view of the public if all of the following requirements are met:

- (1) No business establishment shall have a total of more than three signs facing upon one street or parking area. The total sign area for all signs permitted shall not exceed 15 percent of the area of the face of the building to which they are attached or stand in front of.
- (2) All signs attached to a building shall be flat signs, parallel to and not more than 15 inches from the face of the building wall. Such signs may be attached to or located on a marquee, provided the sign is parallel to the face of the building that it is located in front of. The maximum width of any single sign shall not exceed 90 percent of the width of the wall to which the sign is attached or related.
- (3) Part or all of the total sign area permitted in subsection (1) of this section may be a freestanding pylon sign. Such sign shall not exceed the sum of two square feet in area on a side for each linear foot the sign sets back from the front property line plus one square foot for each foot the building sets back from the front property line. The illustration background of a pylon sign shall be at least eight feet above the ground level. A freestanding sign closer than eight feet to the ground or larger than 200 square feet in area is prohibited.
- (4) Except where lesser front yard requirements are stated for a district, no sign shall be closer than five feet to any property line and, in addition, a pylon *sign* shall not be

closer than a distance equal to its height to any side or rear property line. A flat sign attached to a building may extend up to 15 inches from the face of the building, any setback requirements notwithstanding.

- (5) All light sources used for the illumination of signs, business buildings or area surrounding them shall be completely shielded from the view of vehicular traffic using the public streets, except for diffused lighting within translucent signs. No illumination or sign shall be so placed or designed as to be confused with or appear similar to an official traffic safety device.
- (6) No sign shall exceed a height of 30 feet or extend above the height of the building to which it is attached.
- (7) Gasoline service stations, automotive sales areas and automotive service shops may display, in addition to the foregoing signs in subsections (1) and (2) of this section, the following *signs* which are deemed customary and necessary to their respective business:
 - a. Two temporary signs located inside the property line advertising special seasonal servicing, provided that each such sign does not exceed nine square feet in area.
 - b. Customary lettering insignias which are a structural part of a gasoline pump and a nonilluminated credit card sign.
 - c. One pylon sign of up to 52 square feet in area, regardless of the area provisions of subsections (1) and (3) of this section.
- (8) Sign boards or billboards are permitted as a principal use on unoccupied lots in the B-2 district at a ratio of two square feet of area for each foot of lot width. No billboard shall be erected on a lot with less than 100 feet in width, nor exceed 300 square feet in area. The same yard requirements as those required for a principal building shall be met. No other use or accessory use shall be permitted on a lot with a billboard.
- (9) Notwithstanding any other provision of this article to the contrary, billboards (a large panel designed to carry outdoor advertising) shall be permitted within 100 feet of the 1-96 and US 31 freeways only, on property in B-2, B-3, B-4, SC-1 or M-1. Areas zoned PUD require variance approval. All billboards are subject to the following regulations:
 - a. Billboard allowed only along US 31 and 1-96.
 - b. Each billboard shall be located a minimum distance of 100 feet from residential zoning districts and a minimum distance of 500 feet from all existing residences.
 - c. Each billboard shall be located a minimum distance of 1,000 feet from any other billboard facing the same direction of traffic on either side of the freeway. For purposes of this subsection, the distance between billboards on opposite sides of the freeway shall be measured as the distance between the point at which lines drawn perpendicular to the freeway from the location of each billboard intersect with the line along the center of the freeway.

- d. Each billboard shall be located a minimum distance of 100 feet from all other freestanding on-premises signs which are located on the same side of the freeway and are visible from the traveled portion of the freeway; provided, however, that the minimum distance between billboards shall be governed by subsection (9)c.
- e. Each billboard shall have a minimum setback of two feet from the freeway right-of-way.
- f. A billboard must maintain two feet of distance for every one foot of overall height between the billboard and the nearest property line that intersects the property line abutting the freeway.
- g. No billboard shall contain more than one sign panel facing the same direction of traffic.
- h. No billboard shall contain more than two sign panels.
- i. The light rays of an illuminated billboard shall be cast directly upon the billboard and shall not be directly visible to motorists on the freeway or to nearby buildings except as reflected from the billboard.

No billboard sign panels shall exceed a total area of 672 square feet. The width of each sign panel on a billboard shall not exceed 14 feet and the length of each sign panel on a billboard shall not exceed 48 feet; and provided further that irregularly shaped sign extensions not exceeding four percent of the area of a sign panel may extend beyond the perimeter of a sign panel on a billboard.

- k. No billboard shall be erected unless a building permit has been issued by the building inspection department. All billboard building permit applications must include a blueprint with a minimum wind load rating of no less than 80 miles per hour and design approval by a state-licensed engineer.

(Ord. No. 578, § 17.3, eff. 5-2-1983; Ord. No. 686, § 1, eff. 11-5-1998)

Sec. 42-674. Signs in the manufacturing district.

In the M district the following signs are permitted, provided that all of the following requirements are complied with:

- (1) Signs as permitted and regulated in section 42-672.
- (2) Directional signs of up to three square feet each designating entrances, exits, parking and loading areas, shipping docks or similar traffic control signs. Such signs shall be located **at** least one foot from any property line.
- (3) Ground signs up to ten feet in height located in the rear half of the required front yard.

(Ord. No. 578, § 17.4, eff. 5-2-1983)

Sec. 42-675. Pennants and banners.

Temporary pennants, flags or banners may be permitted in any business or industrial zone for a period of not more than 30 days without a permit, provided they are kept in a state of good repair.

(Ord. No. 578, § 17.5, eff. 5-2-1983)